

**THE SUPREME COURT OF THE STATE OF NEVADA**

THE STATE OF NEVADA,  
DEPARTMENT OF CORRECTIONS,

Appellant,

vs.

JOSE MIGUEL NAVARRETE, an  
individual,

Respondent.

Case No. 82113

District Court No.: A-19-79766-1-  
(Eighth Judicial District Court,  
Nevada)

Electronically Filed  
May 11, 2021 12:33 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**JOINT APPENDIX VOL. V OF VII**

Aaron D. Ford  
Nevada Attorney General  
Michelle Di Silvestro Alanis  
Bar No. 10024  
Supv. Sr. Deputy Attorney General  
Office of the Attorney General  
555 E. Washington Ave. #3900  
Las Vegas, NV 89101  
Phone: 702-486-3268  
Fax: 702-486-3773  
malanis@ag.nv.gov  
*Attorneys for Appellant*

Dan Marks, Esq.  
Bar No. 002003  
Law Office of Daniel Marks  
610 S. 9<sup>th</sup> Street  
Las Vegas, NV 89144  
Phone: 702-386-0536  
office@danielmarks.net  
*Attorney for the Respondent*

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## **CERTIFICATE OF SERVICE**

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on May 10th, 2021, I electronically filed the foregoing document via this Court's electronic filing system. I certify that the following participants in this case are registered electronic filing systems users and will be served electronically:

Daniel Marks, Esq.  
Law Office of Daniel Marks  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Office@danielmarks.net

/s/ Anela Kaheaku  
Anela Kaheaku, an employee of  
the Office of the Attorney General

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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00734  
JA 1003

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**60 Day Extension Needed**

**Navarrete, Jose (IA-2016-0145-04), Senior Correctional Officer, SDCC, Unauthorized Use of Force**  
**Original Due Date: 01/19/2017**

Please see requests attached. Thank you and have a wonderful weekend!

**Katie Gutierrez**

Admin Assistant III to:

Sharlet Gabriel, HR Administrator

3955 W. Russell Rd.

Las Vegas, NV 89118

Phone (702) 486-9914

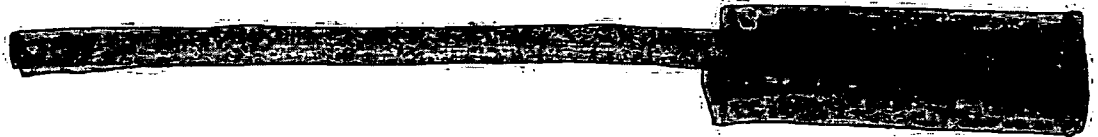
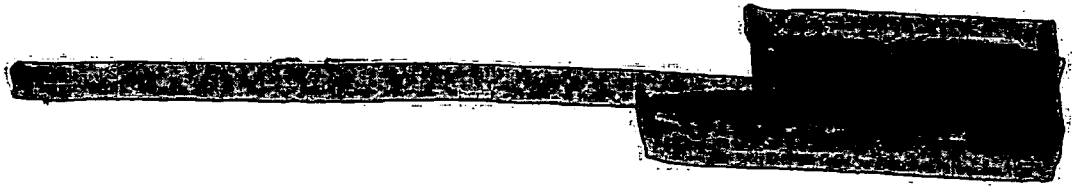
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(775) 887-3285

Southern Administration  
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Las Vegas, NV 89118  
(702) 486-9938



Brian Sandoval  
Governor

James Dzurenda  
Director

**State of Nevada  
Department of Corrections**

December 9, 2016

Mr. Jose Navarrette  
7547 ROLLING RIVER DR  
LAS VEGAS, NEVADA 89131

SUBJECT: COMPLAINT INVESTIGATION  
IA-2016-0145-1

The Office of the Inspector General has completed the investigation into allegations of misconduct by you reported under the above referenced case. The matter has been forwarded to Warden Jo Gentry for appropriate disposition.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pamela Del Porto".

Pamela Del Porto  
Inspector General  
Nevada Department of Corrections

cc Jo Gentry, Warden, SDCC

Office of the Inspector General, 5500 Snyder Avenue, Carson City, NV 89701

(775) 887-3247 Fax: (775) 687-6117

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00741

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Brian Sandoval  
Governor  
James Dzurenda  
Director

State of Nevada  
Department of Corrections  
December 9, 2016

**SUBJECT:**      **ADJUDICATION**      **IA-2016-0145-1**  
                 **ACCUSED STAFF**      **Jose Navarrette, Senior Correctional Officer**  
                 **DUE DATE**      **December 20, 2016**

The Office of the Inspector General has completed the investigation into allegations of misconduct against the above named staff. The investigative report and corresponding information are located on the Stewart Shared Drive under the Inspector General Area for your review and adjudication. The investigative report is formatted in a series of allegations. It will be the responsibility of the adjudicator to review AR 339 and make a determination about the allegations. This adjudication sheet contains the allegations on a single list to assist in the review.

When adjudicating, please make a separate and distinct classification for each allegation:

- **Sustained** (the act occurred)
- **Not sustained** (insufficient evidence to clearly prove or disprove)
- **Exonerated** (act occurred but was justified)
- **Unfounded** (act did not occur)

Prior to proceeding with any corrective or disciplinary action, the Warden/Division Head must obtain concurrence from the Deputy Director. The concurrence date should be included in the Adjudication Report. Also, the Deputy Director must sign and check "Agree or Disagree" on the cover page of the Adjudication Report.

The Adjudication Report must be completed in the prescribed format as outlined in AR 341. The Results of Adjudication Memorandum must be signed by the accused employee and witness. The accused employee may receive a copy of the Results of Adjudication Memorandum. If the results of the adjudication are not any corrective or disciplinary actions that do not result in a Specificity of Charges, the accused employee may also receive a copy of the Adjudication Report. If the results of the adjudication are such that a Specificity of Charges are required, the employee does not receive a copy of the Adjudication Report as the Attorney General's office must review per NRS 284.385.

You must return the original signed Adjudication Report and the original signed Result of Adjudication Memorandum, by the assigned Due Date, regarding your adjudication and disposition to the Office of the Inspector General.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pamela Del Porto".

Pamela Del Porto,  
Inspector General

Office of the Inspector General, 3955 W. Russell Rd Las Vegas, NV 89118  
(702) 486-9913 Fax: (702) 486-9955

**NDOC 0015**

00743

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# State of Nevada Department of Corrections

## Investigation Detail Report

### Investigation

Investigator: MOORE, ROD  
Assigned Date: 10/19/2016  
Report Due Date: 11/19/2016  
Disposition Date:

IR Number: IR-2016-SDCC-004293  
Occurrence Date: 10/09/2016  
IA Number: IA-2016-0145  
IN Number: IN-2016-0313  
Institution: SDCC

### Referral

Referred By: DEL PORTO, PAM  
Referred Date: 10/11/2016 14:59  
Referral Detail: for assignment as a criminal investigation then IA

### Narrative

Attempted assault on a officer in front of the Culinary, spontaneous use of force used.

### Offender Involvement

NDOC ID	Offender Name
1104257	NORELUS, RICKIE

Participation
Participant

Comments:

### Notice of Charges Statement

Name: Valdez, P

Date Taken: 10/09/2016

**Details:** On October 9, 2016 I CO Valdez assigned to Search and Escort from 0500-1300. At approximately 0645 during morning breakfast inmate Norelus, R 1104257 was placed on the wall. While inmate Norelus was on the wall he was told multiple times by me and SCO Navarrete to keep his hands on the wall. Inmate Norelus kept taking his hands off the wall saying "what are you going to do"? after several commands I attempted to place him restraints. When attempting to place him in restraints, I told Inmate Norelus don't move your hands. Inmate Norelus again stated "what are you going to do"? and moved his hands off the wall and turned in an aggressive manner which resulted in a spontaneous use of force. Inmate was placed in restraints medical was called and inmate was taken to the infirmary.

### Staff Involvement

Staff Name
NAVARRETE, JOSE

Participation
Suspect

Comment: S&E (Witness)

### Allegations

Alleg#	Incident Subtype
4	Unauthorized Use of Force

4	Unauthorized Use of Force
---	---------------------------

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*Teri Withersell*

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JA 1015



# State of Nevada Department of Corrections

## Investigation Detail Report

### Investigation

Investigator: MOORE, ROD  
Assigned Date: 10/19/2016  
Report Due Date: 11/19/2016  
Disposition Date:

IR Number: IR-2016-SDCC-004293  
Occurrence Date: 10/09/2016  
IA Number: IA-2016-0145  
IN Number: IN-2016-0313  
Institution: SDCC

### Staff Involvement

#### Allegations

Alleg#	Incident Subtype
5	False and Misleading Statements

5	False and Misleading Statements
---	---------------------------------

5	False and Misleading Statements
---	---------------------------------

5	False and Misleading Statements
---	---------------------------------

#### Reports

Report Type	Report Detail
-------------	---------------

INC028	On October 9, 2016 I, Senior Correctional Officer Navarrete was assigned to Search and Escort at Southern Desert Correctional Center. At approximately 06:45 hours inmate Norelus #1104257 came off the Culinary wall while C/O Valdez was attempting to restrain him resulting in a spontaneous use of force. When inmate Norelus came off the wall he was resisting and both he and C/O Valdez went to the ground. I then assisted in holding the inmates upper body down so that C/O Valdez could restrain him. I notified supervisors and called medical so that they could respond to the scene. Medical responded and inmate Norelus was escorted to the infirmary to be further evaluated.
--------	---

#### Staff Name

VALDEZ, PAUL

Comment: S&E (Use of Force)

#### Participation

Suspect

#### Allegations

Alleg#	Incident Subtype
1	Unauthorized Use of Force

Report Name: IGIDR

Reference Name: NOTIS-RPT-OR-0185.8

Run Date: OCT-20-16 10:42 AM

Page 2 of 6

NDOC 0019

00747

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**NDOC 0020**

00748

JA 1017



State of Nevada  
Department of Corrections

Investigation Detail Report

Investigation

Investigator: MOORE, ROD  
Assigned Date: 10/19/2016  
Report Due Date: 11/19/2016  
Disposition Date:

IR Number: IR-2016-SDCC-004293  
Occurrence Date: 10/09/2016  
IA Number: IA-2016-0145  
IN Number: IN-2016-0313  
Institution: SDCC

Staff Involvement

Allegations

<u>Alleg#</u>	<u>Incident Subtype</u>
1	Unauthorized Use of Force

2	Unauthorized Use of Force
---	---------------------------

2	Unauthorized Use of Force
---	---------------------------

2	Unauthorized Use of Force
---	---------------------------

2	Unauthorized Use of Force
---	---------------------------

3	False and Misleading Statements
---	---------------------------------

3	False and Misleading Statements
---	---------------------------------

3	False and Misleading Statements
---	---------------------------------

3	False and Misleading Statements
---	---------------------------------

Reports

<u>Report Type</u>	<u>Report Detail</u>
--------------------	----------------------

INC028	On October 9, 2016 I CO Valdez assigned to Search and Escort from 0500-1300. At approximately 0645 during morning breakfast inmate Noretus, R 1104257 was placed on the wall.
--------	---

Report Name: IGIDR

Reference Name: NOTIS-RPT-OR-0185.8

Run Date: OCT-20-16 10:42 AM

Page 3 of 6

ND0C 0021

00749

JA 1018

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Date: 7/10/2017

Signed: Teri Dethersell

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**NDOC 0022**

00750

JA 1019



State of Nevada  
Department of Corrections

Investigation Detail Report

Investigation

Investigator: MOORE, ROD  
Assigned Date: 10/19/2016  
Report Due Date: 11/19/2016  
Disposition Date:

IR Number: IR-2016-SDCC-004293  
Occurrence Date: 10/09/2016  
IA Number: IA-2016-0145  
IN Number: IN-2016-0313  
Institution: SDCC

Staff Involvement

Reports

Report Type Report Detail

While inmate Norelus was on the wall he was told multiple times by me and SCO Navarrete to keep his hands on the wall. Inmate Norelus kept taking his hands off the wall saying ?what are you going to do?? after several commands I attempted to place him restraints. When attempting to place him in restraints, I told Inmate Norelus don't move your hands. Inmate Norelus again stated ?what are you going to do?? and moved his hands off the wall and turned in an aggressive manner which resulted in a spontaneous use of force. Inmate was placed in restraints medical was called and inmate was taken to the infirmary.

USEOF On October 9, 2016 I CO Valdez assigned to Search and Escort from 0500-1300. At approximately 0645 when attempting to place inmate Norelus #1104527 in restraints, inmate Norelus turned aggressively toward me. Fearing for my safety I placed my arms around his shoulders and attempted to place him on the ground. During the process of placing him to the ground, inmate Norelus turned his body around and I become face to face with the inmate, at this point I wrestled inmate Norelus down forcing him to the ground. Once inmate Norelus was on the ground I gave him the order to turn around by rolling to his right side. Using my left hand I reach for my restraints and cuffed his left hand and immediately secured his right hand. Supervision and medical were informed of the use of force. Medical came out took inmate to infirmary for medical examination.

Staff Name

WACHTER, DAVID

Comment: S&E (Witness)

Participation

Reporting

Reports

Report Type Report Detail

INC028 I Correctional Officer D. Wachter was posted as Search and Escort at Southern Desert Correctional Center on 10/09/2016 between 0500 and 1300 hours. At approximately 0645 while feeding breakfast, C/O Valdez told inmate Norelus, Rickie # 1104257 on the wall for a random pat search. With another unit coming to the chow hall, I placed myself in between the unit and the search taking place behind me. I then heard a commotion which I turned around and saw C/O Valdez taking the inmate to the ground. I noticed SC/O Navarrete closer to the incident than me, so I proceeded to shut the culinary door and get the rest of the unit on the ground. Medical came and I escorted inmate Norelus to the infirmary. End Of Report.

Staff Name

DATUIN, DUSTIN

Comment: Medical staff

Participation

Reporting

Reports

Report Type Report Detail

USEOF On Sunday 9, 2016, I Dustin T. Datuin Correctional Nurse II was on duty at Southern Desert Correctional Center assigned to the medical infirmary from 1900 to 0700. Approximately around 06:45 a.m., inmate seen in culinary on the ground with bilateral wrist restraint and brought medical infirmary for medical evaluation, inmate name Norelus, Rickie # 1104257. Inmate states, ?I was

Report Name: IGIDR

Reference Name: NOTIS-RPT-OR-0185.8

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Page 4 of 6

NDOC 0023

00751

JA 1020

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00752

JA 1021





# State of Nevada Department of Corrections

## Investigation Detail Report

### Investigation

Investigator: MOORE, ROD  
Assigned Date: 10/19/2016  
Report Due Date: 11/19/2016  
Disposition Date:

IR Number: IR-2016-SDCC-004293  
Occurrence Date: 10/09/2016  
IA Number: IA-2016-0145  
IN Number: IN-2016-0313  
Institution: SDCC

### Staff Involvement

#### Reports

##### Report Type Report Detail

INC028 taken down to the ground by two officers, CO Valdez and CO Navarett?, vitals and medically stable, no injury noted at this time, returned inmate to custody. End of report.

INC028 On Sunday 9, 2016, I Dustin T. Datuin Correctional Nurse II was on duty at Southern Desert Correctional Center assigned to the medical infirmary from 1900 to 0700. Approximately around 06:45 a.m., inmate seen in culinary on the ground with bilateral wrist restraint and brought medical infirmary for medical evaluation, inmate name Norelus, Rickie # 1104257. Inmate states, ?I was taken down to the ground by two officers, CO Valdez and CO Navarett?, vitals and medically stable, no injury noted at this time, returned inmate to custody. End of report.

INC028 On Sunday 9, 2016, I Dustin T. Datuin Correctional Nurse II was on duty at Southern Desert Correctional Center assigned to the medical infirmary from 1900 to 0700. Approximately around 06:45 a.m., inmate seen in culinary on the ground with bilateral wrist restraint and brought medical infirmary for medical evaluation, inmate name Norelus, Rickie # 1104257. Inmate states, ?I was taken down to the ground by two officers, CO Valdez and CO Navarett?, vitals and medically stable, no injury noted at this time, returned inmate to custody. End of report.

INC028 On Sunday 9, 2016, I Dustin T. Datuin Correctional Nurse II was on duty at Southern Desert Correctional Center assigned to the medical infirmary from 1900 to 0700. Approximately around 06:45 a.m., inmate seen in culinary on the ground with bilateral wrist restraint and brought medical infirmary for medical evaluation, inmate name Norelus, Rickie # 1104257. Inmate states, ?I was taken down to the ground by two officers, CO Valdez and CO Navarett?, vitals and medically stable, no injury noted at this time, returned inmate to custody. End of report.

#### Staff Name

WILLETT, DEAN

Comment: Shift Command

#### Participation

Reporting

#### Reports

##### Report Type Report Detail

INC019 On October 9, 2016 at approximately 0645 hours Senior Officer Navarrete, J notified SDCC Shift Command Sgt. Willett via radio that Officer Valdez, P had to place inmate Norelus, R # 1104527 on the ground (spontaneous Use of Force) , inmate Norelus was not following instruction and moved aggressively toward Officer Valdez when being placed in restraints. Inmate Norelus was placed in restraints, transported to the infirmary. Inmate Norelus was evaluated by medical staff no injuries noted, photographs were taken and uploaded into NOTIS. Inmate Norelus due process started and was placed in Unit 8 AdSeg pending disciplinary. Officer Valdez reported both of his knees were hurting (C-1 completed). AWO Adams was notified. Due to the size of the Culinary video, it was place on the SDCC share drive (Incident video (non-mandown) under IR number).

#### Staff Name

KNATZ, TIMOTHY

Comment: Responding staff (medical escort)

#### Participation

Reporting

Report Name: IGIDR

Reference Name: NOTIS-RPT-OR-0185.8

Run Date: OCT-20-16 10:42 AM

Page 5 of 6

ND0C 0025

00753

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**NDOC 0026**  
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JA 1023



State of Nevada  
Department of Corrections

Investigation Detail Report

Investigation

Investigator: MOORE, ROD  
Assigned Date: 10/19/2016  
Report Due Date: 11/19/2016  
Disposition Date:

IR Number: IR-2016-SDCC-004293  
Occurrence Date: 10/09/2016  
IA Number: IA-2016-0145  
IN Number: IN-2016-0313  
Institution: SDCC

Staff Involvement

Reports

Report Type   Report Detail

INC028

On 10/9/2016 at approximately 0645 I, Senior Correctional Officer Timothy Knatz, while working as the acting shift Sergeant at Southern Desert Correctional Center responded to a call of a spontaneous use of force in front of the culinary. I took the video camera and still frame camera from Operations and then escorted the responding nurse from infirmary to the scene in front of the culinary. The video camera was on and I began filming at K-Gate. When we arrived, there was an inmate laying on the ground with his hands restrained behind his back. This inmate would later be identified as Norelus, R. #1104257. The nurse asked inmate Norelus if he was injured and inmate Norelus stated that he had a concussion. The inmate was assisted to his feet and assisted onto the nurse's cart. I escorted nursing staff and the inmate back to the infirmary for a complete evaluation. While in the infirmary, I took photographs of inmate Norelus's alleged injuries. There were no visible marks noted at this time. There is nothing further to report.

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Signature: *Heidi Bithorn*

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JA 1025

STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
NOTICE OF INTERROGATION/INTERVIEW  
ADMINISTRATIVE INVESTIGATION

Peace Officer  
IA-2016-145

TO: Navarrete, Jose Senior Correctional Officer, SDCC

FROM: Rod Moore, Supervisory Criminal Investigator, Office of the Inspector General

DATE: October 21, 2016

This is to advise you that you are the subject of an internal administrative investigation that could result in punitive action being taken against you. While investigators gather the facts concerning the allegations against you, be assured that every reasonable effort will be made to conduct the investigation in a neutral, fair, impartial, and timely manner. Your full cooperation is required. In accordance with NAC 284.650(23), failure to participate in an administrative investigation authorized by the Department is cause for disciplinary action. This investigation is based upon one or more allegations of improper conduct or activity that has been received by this office. Your statements during this interview may also be used as a witness statement in another case. Nothing in this process shall abridge any rights guaranteed by the Constitution of the United States or any other applicable law or regulation.

Pursuant to State law, (NRS 289.060) you have the right to have two representatives of your choosing present during any phase of an interrogation or hearing relating to the investigation including without limitation, a lawyer, a representative of a labor union or another peace officer when you are questioned regarding this/these allegations. You have up to 48 hours to obtain a lawyer or other authorized representative, if you so choose. However, the representative must not be a person connected to or named as a subject or witness to the investigation. It is your responsibility to arrange for the presence of a representative. Representatives who are also Department employees must not be on-duty during the time they are representing you. (AR 342.01)

It is alleged that you engaged in **UNAUTHORIZED USE OF FORCE and FALSE AND MISLEADING STATEMENTS**

**Departmental complaint alleges that on October 09, 2016 while on duty at SDCC Sr. Correctional Officer Navarrete, Jose allowed a scenario where hands on use of force was used and willfully and with intent, assisted in the excessive force upon an inmate.**

**Departmental complaint alleges that on October 09, 2016 while on duty at SDCC Sr. Correctional Officer Navarrete, Jose wrote an official report relating to a use of force he was involved in. The events of that use of force and Navarrete's subsequent report do not share consistencies and rises to the level of fabrication in order to shield his true actions.**

- This matter has been assigned for investigation to **ROD MOORE** who is in charge of the investigation. You are directed to make yourself available for interview on **THURSDAY, OCTOBER 27, 2016 at 11:00 am**. The interview will be conducted by **ROD MOORE**. The interview will be held at **3955 W. RUSSELL ROAD, LAS VEGAS, NEVADA, AT THE CGTH BUILDING**. You are expected to provide candid and truthful information during the interview. Providing false or misleading statements to the interviewer is a separate violation that could result in additional disciplinary action, including termination.

This is an official investigation being conducted by the Department of Corrections. All matters are strictly confidential. In order to protect your confidentiality, the rights of other employees and involved persons, and the integrity of the investigation, you are hereby directed not to participate in the dissemination/discussion of any information based on this investigative process. In addition, you will exclude yourself from any form of communication with others regarding this investigation. Information shared with your representative is excluded from this directive. Any violation of this confidentiality directive or attempts to influence any witness or victim is a separate violation that could result in additional disciplinary action, including termination.

( ) I waive my right to have an attorney/representative present.

*(initials)* I wish to have IBJ represent me during this interview.

**NDOC 0029**

00757

JA 1026

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STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
NOTICE OF INTERROGATION/INTERVIEW  
ADMINISTRATIVE INVESTIGATION

Peace Officer

IA-2016-145

Any information that a representative obtains from the peace officer who is the subject of the investigation is confidential and must not be disclosed, except under the prescribed mandated circumstances outlined in NRS 289.080.

**IMPORTANT:** *Your signature is not an admission of guilt. Your signature is merely an acknowledgement of receipt of this notice. Your refusal to sign this notice when ordered to do so may result in disciplinary action against you.*

  
EMPLOYEE SIGNATURE

10.21.14  
DATE

  
PERSON SERVING SIGNATURE

10/21/14  
DATE

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**NDOC 0032**

00760

JA 1029



Northern Administration  
5500 Snyder Ave.  
Carson City, NV 89701  
(775) 887-3285

Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9938



State of Nevada  
Department of Corrections

Brian Sandoval  
Governor

James Dzurenda  
Director

Sharlet Gabriel  
HR Administrator

October 13, 2016

Jose Navarrete  
7547 Rolling River Dr.  
Las Vegas, NV 89131


RE: ADMINISTRATIVE LEAVE

Mr. Navarrete:

As of this date, October 13, 2016, you are being placed on Administrative Leave until further notice.

You must be available from 8:00 am – 12:00 pm and 1:00 – 5:00 pm, Monday – Friday, in the event we need to reach you.


Sincerely,

  
James Dzurenda  
Director

I, JOSE NAVARRETE, have received this notice on 10-13-16  
(name) (date)  
and will comply. My current telephone number is 702-510-3618  
(phone number)

Signature 

Witness by:  Date 10-13-16 Time 8:10 am

Current copy of AR322 has been provided.   
(Employee Initials)

Human Resources Division  
Las Vegas, NV  
3955 W. Russell Road  
Las Vegas, Nevada 89118  
Phone (702) 486-9914  
Fax (702) 486-9974

Human Resources Office  
Carson City, Nevada  
P.O. Box 7011  
Carson City, Nevada 89702  
Phone (775) 887-3204  
Fax (775) 887-3391

Human Resources Office  
Lovelock, Nevada  
1200 Prison Rd  
Lovelock, Nevada 89419  
Phone (775) 273-4232  
Fax (775) 273-4228

Human Resources Office  
Ely, Nevada  
P.O. Box 1989  
Ely, Nevada 89301  
Phone (775) 289-1218  
**NDCC 8833**

00761  
JA 1030

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7/10/2017

Signature:

*[Handwritten Signature]*

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**NDOC 0034**

00762

JA 1031

STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL  
MEMORANDUM

DATE: 10/27/16  
TO: Jose Navarrete  
FROM: Rod Moore

SUBJECT: Admonition of Confidentiality

You are ordered not to discuss this case or any portion of your interview concerning the allegations under investigation in this matter with anyone. You are ordered not to have any interaction, engage in any conversations with, intimidate, threaten or coerce any other participant, witness, accused or reporting party, about this matter or the investigation. This admonition covers all questions asked, your responses to those questions, and any reports authored by you. You are not to discuss any conversations related to your interview and the matter under investigation. You are not to share copies of any tape recordings of this interview that may be in your possession with any person.

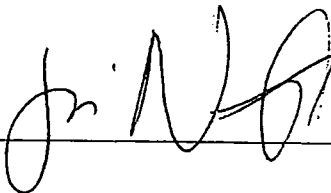
In the event this order is violated, you may be subject to new and/or additional disciplinary action, up to and including termination.

Your signature below confirms that you have read, understand and agree to follow this admonition.

Date

10.27.16

Signature



Any information that a representative obtains from the peace officer who is the subject of the investigation is confidential and must not be disclosed, except under the prescribed mandated circumstances outlined in NRS 289.080.

Any information that a representative obtains from the peace officer who is a witness concerning the investigation is confidential and must not be disclosed as outlined in NRS 289.080.

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Signature: [Handwritten Signature]

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**NDOC 0036**

00764

JA 1033

State of Nevada  
Department of Corrections  
**Admonition of Rights (Administrative)**

Case Number <u>JA-2016-145</u>
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This is to advise you that you are being questioned as part of an official investigation by the Nevada Department of Corrections. You will be asked questions specifically directed and narrowly related to the performance of your official duties. You are entitled to all the rights and privileges guaranteed by law, including the Constitution of the State of Nevada and the Constitution of the United States. This includes the right not to be compelled to incriminate yourself. You are further advised that if you refuse to answer questions and/or mislead or give false statements relating to the performance of your official duties, you will be subject to Department Charges that could result in your dismissal from employment. If you do answer, your statements will not be used against you in any subsequent criminal proceedings. However, these statements may be used against you in relation to subsequent Department Charges.

As in all investigations conducted by this office, the Inspector General is in charge of the investigation. The investigator(s) assigned to the case is [INVESTIGATOR'S NAME]. You may upon request, without limitation, have a lawyer and/or other representative of your choosing present, as long as the representative(s) is not otherwise connected to, or the subject of this investigation, per NRS 289.060/NRS 284.387.

I do hereby acknowledge that I have received and understand the above Administrative Admonition of Rights.

Signature: *Jr. N. A.* Date: 10.27.16  
Title: Senior Correctional Officer Time: 10:55 am

Employee Representative

Name: William T. Sykes Date: 10/27/16  
Title: Lawyer Time: 10:55 am

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

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**NDOC 0038**

00766

JA 1035



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**NDOC 0040**

00768

JA 1037



STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL

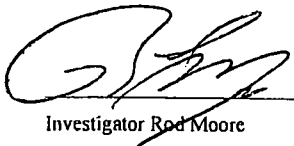
**DATE:** December 08, 2016  
**TO:** Jo Gentry, Warden, Southern Desert Correctional Center  
**FROM:** Rod Moore Supervisory Criminal Investigator, Office of the Inspector General  
**SUBJECT: REPORT OF PERSONNEL COMPLAINT INVESTIGATION  
IA-2016-145**

**COMPLAINT:**

Departmental complaint alleges that Correctional officer NAVARRETE, JOSE, engaged in  
**UNAUTHORIZED USE OF FORCE and FALSE AND MISLEADING STATEMENTS**

**ACCUSED STAFF:**

Navarrete, Jose  
Senior Correctional Officer  
SDCC

  
Investigator Rod Moore

12/9/16  
Date

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Date

**APPROVED**  
  
Pamela Del Portillo  
Inspector General

**DOC**

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**NDOC 0041**

00769

JA 1038

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**NDOC 0042**  
00770  
JA 1039

Subject:

**SUMMARY:**

On October 09, 2016 Correctional Officer Paul Valdez and another officer was involved in a "spontaneous use of force" with inmate Rickie Norelus 1104257. A review of video footage by the Southern Desert Correctional Center administration of the spontaneous use of force was deemed as being conducted outside the scope of the NDOC's policies relating to Use of Force. SDCC administration requested an investigation into the events that transpired on October 09, 2016.

**ALLEGATION I**

Departmental complaint alleges that Navarrete, Jose engaged in **UNAUTHORIZED USE OF FORCE** when on 10/09/2016 officer Valdez grabbed inmate Norelus, Rickie 1104257 around the neck and took the inmate to the ground without sufficient cause to do so and as the senior officer allowed this unauthorized use of Force without proper intervention .

**ALLEGATION II**

Departmental complaint alleges that Navarrete, Jose engaged in **FALSE AND MISLEADING STATEMENTS** when officer Navarrete knowingly completed and submitted a report documenting the events of the Use of Force that were not compatible with what was viewed in the video of the same Use of Force.

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**NDOC 0043**

00771

JA 1040

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Date:

7/18/2017

Signature:

Steve Withnell

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**NDOC 0044**

00772

JA 1041

Subject:

### WITNESS LIST

WITNESS	DATE/TIME INTERVIEWED	AUDIO RECORDED TAPE NUMBER AND SIDE	PAGE NUMBER
Navarrete, Jose Sr. Correctional Officer SDCC	10/27/2016	Digitally recorded	4
Valdez, Paul Correctional Officer SDCC	10/27/2016	Digitally recorded	8

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**NDOC 0045**

00773

JA 1042

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Signature: Lui Withersell

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**NDOC 0046**

00774

JA 1043

Subject:

## INVESTIGATION

### NAVARRETE, JOSE, SENIOR CORRECTIONAL OFFICER, SOUTHERN DESERT CORRECTIONAL CENTER

On October 27, 2016 I, Supervisory Criminal Investigator {SCI} Rod Moore conducted an in person interview with Senior Correctional Officer Jose Navarrete at the Casa Grande Transitional Housing administrative offices. Officer Navarrete was issued his Notice for interview on October 21, 2016. Officer Navarrete was given his Admonition of Rights which he read and signed as well as his admonition of confidentiality. He was represented by his attorney Will Sikes.

#### ALLEGATION I

#### ALLEGATION II

Officer Navarrete said he was working on October 09, 2016 at the Southern Desert Correctional Center in a position he describes as "lead Search and Escort." He said that position is comprised of maintaining movement of inmates and maintaining security throughout the facility and search in cells. In relation to culinary operations the search and escort officer responsibilities according to Navarrete is maintaining a visual on inmates inside the culinary to ensure there are no fights or they are taking things out they are not supposed to and being the back up for the culinary officers inside as well as conducting routine pat searches on inmates coming in and out of the culinary.

Navarrete stated a scenario where an inmate would be detained and placed upon the wall and or searched could come from anything. He said they are random or if an officer sees something inside the culinary that the inmate was doing and the officer would wait until he left the culinary to stop and search him.

Navarrete stated he has been assigned to that position for approximately three months and was in a search and escort position on graveyard for about a year and a half as well. Navarrete agreed he has a large amount of experience in the search and escort position.

Navarrete stated he has worked with officer Valdez for approximately a year. He said he and Valdez do things outside of work as well such as having lunch, but nothing too involved.

Regarding the use of force incident Navarrete said, "If I remember correctly, the inmate was randomly placed on the wall with three other inmates and pat searched." In regards to inmate Norelus, he was being "non-compliant and verbally abusive" and wasn't listening to his orders and this is why he was kept on the wall longer than the other inmates.

Navarrete agreed he has the ability to restrain an inmate whenever he sees that it would necessary based on his experience as a search and escort officer. He said the reason Norelus wasn't placed in hand cuffs when he was being non-compliant and verbally abusive in the beginning of the contact was "because he didn't want to put any inmate or C/O in danger, so if the other inmates

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ND0000047

00775

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**NDOC 0048**

00776

JA 1045



Page 5 of 14

Subject:

are being compliant, I'll get them out of the way, and if the inmate is still irritated or non-compliant, why am I going to approach him?"

In regards to the time the inmate was placed on the wall until the use of force happened, Navarrete said the inmate was given multiple orders to stay on the wall and not to move. Navarrete continued saying "he told the inmate that any movement that was not directed by him or Valdez would be taken as a threat and multiple times he came off the wall, moved his head, moved his body, again, multiple times."

"When the use of force happened, I was actually leaning on the wall, Officer Valdez walked up to the inmate and placed his left arm on the inmate and went to what I saw, restrain the inmate and when Valdez did that, the inmate was continuously moving and given another directive not to move, and the inmates hands were coming off the wall. So once that happened, officer Valdez and the inmate came off the wall, inmate Norelus was still resisting and they fell to the ground. That's when you see me come off the wall and get control of the inmates upper body and told officer Valdez to restrain the inmate and then got on the radio and notified the Sergeant that we just had a use of force."

Medical was called nearly at the same time o they could assess the inmate for injuries and move him. The response was videotaped and they took him to the infirmary and that was it.

Navarrete's attorney asked if he could clarify something that Navarrete had stated. Mr. Sikes asked if when describing the inmate coming off the wall, was his entire body coming off the wall or just his hands and head?

Navarrete said he observed it to be mostly the inmate's hands and his head that was coming off the wall. Navarrete agreed the inmates turn was mainly form the shoulder area and not a full body turn.

According to Navarrete he estimates from the time Valdez made contact to the time they went to the ground it was "less than a minute." I explained again, "from the time Valdez touched inmate Norelus, to the time they went to the ground." Navarrete again stated, "yeah, it was a minute or so."

Navarrete stated inmate Norelus was placed and left on the wall for approximately 10-15 minutes. He said he was left there that long because Norelus wasn't being compliant and wasn't listening to orders and was agitated. Navarrete said during that time, he does recall counseling Norelus on the rules and regulations and trying to defuse the situation as well as Valdez.

Navarrete stated he has seen the video of the use of force and watched inside the culinary with officer Valdez. He said he has seen the video approximately ten times and came away with the same conclusion every time. Navarrete said he does have the video on his state e-mail and it was down loaded from the culinary with authorization from the shift Sgt.

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**NDOC 0049**

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**NDOC 0050**  
00778  
JA 1047

Page 6 of 14

Subject:

Navarrete said he does "somewhat" recall what was written in his report. Navarrete was allowed to review his report before continuing with questioning. He read the report out loud. I asked Navarrete if that was clear and accurate depiction of what occurred. He said "yes."

Navarrete was asked if knew what inmate Norelus' problem was that lead to all this. He said I don't know, maybe he was upset for being put up on the wall. Navarrete continued saying, maybe it was because Norelus was caught with extra food in his sack lunch that he was trying to get out of the culinary.

Navarrete said he couldn't recall what exactly Norelus was saying that was verbally abusive but there was profanity.

Navarrete said Valdez did call him when Valdez was writing his report but Navarrete did not speak to Valdez when he was writing his.

Navarrete was shown the video and asked to articulate what he and Valdez were doing and why.

While observing the video, Navarrete identifies himself and officer Valdez.

Navarrete was shown when the inmate looks at his left arm and states "it was slight" but he did come off the wall.

Navarrete agrees the inmate is in an agitated state and being verbally abusive. I pointed out Navarrete's posture of leaning up against the wall next to the inmate from about two to three feet to which Navarrete claims was not tactically wrong.

I asked him if the situation at the moment was under control or fluid and could in any direction. Navarrete responded by saying when he talks to inmates and he's in a relaxed state it give the inmate the notion that nothing is going to go wrong, were just talking.

Navarrete sated the moment Valdez starts to approach the inmate was due to the inmate being non-compliant. He said the inmate continued to "move around." Navarrette stated he could not speak for Valdez as to why he approached the inmate at that very moment.

Navarrete stated in this situation he is Valdez's superior. I asked Navarrete if he was in charge of Valdez at that moment or was he just allowing Valdez to do his own thing? He said "somewhat, but yeah, he is a senior officer, but he's technically not a supervisor."

As we continue our review of the video, we get to the point in the video where Valdez touches inmate Norelus's back and reaches around his neck. I then point out that inmate Norelus's hand can still be seen as still being on the wall and has not moved his feet. The video was played again.

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00779

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*Teri W. Howell*

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**NDOC 0052**

00780

JA 1049

Page 7 of 14

Subject:

I pointed out that there was nothing Navarrete could physically do from his standpoint due to Valdez's action being quick. I narrated that "we had a push, then around the neck, and then down they go."

When I pointed out that it was reported that Valdez was going for his restraints and in the video, "there was none of that." Navarrete said, everyone has a different way, and for him, he doesn't get out his restraints, he gains control first, and then gets out his restraints.

After covering the video and the discrepancies between the reporting versus what physically occurred, I asked Navarrete one more time if he still felt his report accurately reflected what occurred and why. Navarrete stated, "One hundred percent."

In conclusion I asked Navarrete if he was a use of force instructor to which he said, "no." I asked him if he successfully completed his yearly training in IST to include defensive tactics. He stated he has.

I then asked Navarrete if he had engaged in any defensive tactics being taught by the department that trains to initiate the force by grabbing an inmate around the neck.

Navarrete said, "no."

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**NDOC 0053**

00781

JA 1050

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**NDOC 0054**

00782

JA 1051

Subject:

## INVESTIGATION

### VALDEZ, PAUL, CORRECTIONAL OFFICER, SOUTHERN DESERT CORRECTIONAL CENTER, INDIAN SPRINGS, NEVADA.

On October 27, 2016 I Supervisory Criminal Investigator Rod Moore conducted an in person interview with Correctional Officer Paul Valdez. Valdez was served his Notice for Interview on October 21, 2016. Mr. Valdez was given his Admonition of Rights {administrative} which he read and signed. He was given his admonition of confidentiality which he read and signed. Mr. Valdez was represented by Russ Goodman of the Goodman Law Firm.

Officer Valdez stated he was working as a "Search and Escort" officer at SDCC on October 09, 2016 and has been assigned to that position since July of 2016. Valdez confirmed he was working with Senior Correctional Officer Navarrete on October 09, 2016.

Valdez stated the breakfast meal starts at approximately 5:00am and ends at approximately 7:30 am depending on what is being served at breakfast.

Valdez stated that normal duties of a Search and Escort officer in relation to the culinary would make sure there are no fights or line cutting of the inmates and that inmates are actually eating and not just hanging around the culinary. He stated another duty is to ensure the inmates aren't stealing more food out of the culinary that not part of the "sack lunch" that's given to them for their afternoon meal and generally making sure the flow of inmates in and out of the culinary goes well.

Valdez stated that senior officer Navarrete would be the officer in charge of the four man Search and Escort officers.

Valdez stated he does recall a Use of force incident that occurred that morning on October 09, 2016. He said inmate Norelus's unit was leaving the culinary and they were picking random inmates for "pat downs." He said Norelus was upset he was chosen and was placed on the wall. He said extra food for discovered in his sack lunch that was very easy to see. Once on the wall Norelus was got more upset and started using foul language and showing he was going to be "non-compliant."

Valdez stated he Senior officer Navarrete told Norelus to keep his hands on the wall and he didn't listen and kept taking his hands off the wall saying, "what are you gonna do?" and being aggressive.

Valdez stated, "for the spontaneous, I went in, and it ended up being a spontaneous use of force after I put my hands on him," Norelus turned and said "what are you going to do." Norelus then made "an aggressive move" and at that point I grabbed him and I tried to put him down on the ground and he resisted and we ended up being face to face." Valdez continued saying, "he was resisting and they fell to the floor" where Valdez was able to gain control of Norelus.

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**NDOC 0055**

00783

JA 1052

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Date: 7/10/2017

Signature: Jeri Withersell

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**NDOC 0056**

00784

JA 1053



Page 9 of 14

Subject:

Valdez said Navareet was to his left side and when Navarrete reacted it was already over because it happened so fast. Valdez said there were only him and Navarrete dealing with inmate Norelus this entire time.

Valdez said there was about four or five other inmates there pulled out of the line for "pat downs." He said none of those inmates gave them any problems.

Valdez was asked, on a scale of 1 to 10 how bad was this inmate" Valdez stated, "probably a 10." Valdez agreed, the inmate was enough of a problem to where he had to place hands on him to gain control.

Valdez stated he did submit a report and at no time did he and Navarrete talk about their reports. Valdez was asked if he recalled what he wrote in his report. He said, "for the most part, yeah."

Valdez was given a copy of his report to review before anymore questioning.

After reviewing his report, Valdez said this was an accurate depiction of what happened that morning on October 09, 2016. Valdez said he had watched the video once or twice within the culinary. He said he does not have a copy of the video.

Valdez stated he thinks the events that are the video and what was written in his report is an accurate depiction of both.

Valdez was informed that we were going to watch the video that shows the use of force so he can articulate his actions.

Valdez identifies officer Wachter, David as being in the video but is watching inmate going into the culinary and his back facing him and Navarrete the entire time during the use of force.

Valdez articulates the he's standing on the outside of the culinary exit door. Valdez identifies, senior officer Navarrete as being close to him but in a location behind Valdez.

Valdez identifies himself and inmate Norelus.

Valdez was asked why inmate Norelus was on the wall for approximately fifteen minutes. He said we were trying to give him directives and he wouldn't listen and they were going to send him into unit "hot" and be a problem for that unit officer.

At specific time in the video just before the use of force, Norelus has both of his hands on the wall and appears to look at his watch on his left hand. Valdez stated he didn't think Norelus was looking at his watch because every time he was told to keep his hands on the wall Norelus would say, "What are you going to do?" Valdez was asked why Norelus kept challenging him. He said because Norelus was upset.

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**ND0C 0057**

00785

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**NDOC 0058**

00786

JA 1055

Subject:

I pointed out that Valdez stated earlier that Norelus was 10 out of 10 in an agitated state, and Navarrete was standing with his hands in his pockets leaning on one shoulder against the wall just feet to the left of inmate Norelus and didn't seem to be worried about it. Valdez said he was more focused on Norelus than watching senior officer Navarrete.

I asked Valdez why he started walking towards Norelus. He stated because Norelus had already been warned many times and was not listening to our directives so at that point I go into restrain him so we can defuse his actions of being a disruptive inmate. Valdez stated he told Norelus that he was approaching him and told Norelus that "he was going cuff him up and any sign of movement I'm going to take that as a sign of aggression."

Valdez stated the first move he made was leaning Norelus against the wall with his left arm so he kept it "wall body, body so Norelus has little movement as possible." Valdez agrees that Norelus then turn on him and that's when everything went bad when I was establishing Valdez's verbal accounts of what happened prior to continuing with the video.

I stated to Valdez that if I was someone who knew nothing about corrections, or control and restraint techniques I would view this video as showing him do "a push in the back, arm around the inmates throat and then dragging him back." I then explained that in his report, he wrote he attempted to hand cuff the inmate. I then stated, in the video there was no attempt of you going for your hand cuffs, nor were your hand cuffs ready. There was a push, around the neck, and then back.

I asked Valdez if he would agree to my assessment of the video. Valdez stated, "If you see the video, I push, then he leans and at that time I'm not going to pull my restraints out and allow them to become a weapon." I agreed with Valdez on that point.

Valdez pointed to the video and say if you look, he's coming off the wall after being told not to. I asked Him, "Which way the inmate is facing?" Valdez said he comes off to the left. I stated, "you pulled to his left."

Continuing with the video, I showed Valdez that inmate Norelus fingers was the last thing to leave the wall and Valdez's force pulls Norelus to the left because that's the only place he can go.

We continued to watch the video literally frame by frame and there was varying opinions on whether Norelus's hands ever came off the wall or was being non-compliant.

Valdez while watching the video reiterates, "Any kind of movement is taken as a sign of aggression." I asked Valdez, "so after having Norelus on the wall for 15 minutes, and you see him lift his left hand off the wall, {while Valdez is several yards behind Norelus} your use of force continuum was to then cuff him up?" Valdez thought for a second and stated, "yes."

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**NDOC 0059**

00787

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**NDOC 0060**

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JA 1057

Page 11 of 14

Subject:

I again showed Valdez the frames of the video of him pushing Norelus against the wall, then placing his arm around Norelus's neck. I pointed out that both of Norelus's hands are still on the wall. Both Navarrete and his attorney did not completely agree with my observations.

I asked Valdez if he successfully been through all his yearly refresher training including control and restraints and his other training in the academy. He said he has. I then asked Valdez in any of that training with the Department of Corrections, had he ever been trained to grab an inmate around the neck as part of his use of force training for situations such as this one.

Valdez stated, "that situation was more of a reaction for my safety. I reacted and did what I needed to do to put him down."

I stated to Valdez, Okay, I'm going to ask you again, your report versus what we have discussed while watching the video; you're 100% accurate that your report is a true and accurate depiction of what happened."

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**NDOC 0061**

00789

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JA 1059

Subject:

### INVESTIGATOR NOTES

1. During the review of the video, there are several other inmates who were placed upon the wall. Only inmate Norelus was left on the wall for approximately 11-14 minutes. According to testimony by officer Navarrete, Norelus was ordered to remain with his hands on the wall and not to move for this entire time.
2. During the interview process, it was stated by Navarrete that inmate Norelus was "coming off the wall and disregarding orders" repeatedly. However, the video shows inmate Norelus does not break contact or move aggressively towards any officer.
3. Once inmate Norelus is grabbed around the neck, the video still shows he has contact with both hands on the wall.
4. Inmate Norelus does manipulate his left arm in a fashion that appears he is looking at his watch. Both officers are away from him at that time and do not react to that motion. This motion appears to be the most movement Norelus does during the contact.
5. Only in a lifesaving scenario would it be appropriate to initiate a Use of Force upon an inmate in the neck or throat area and this type of hands on maneuver is not taught by any defensive tactics trainer within NDOC specific to this scenario.
6. At 1:47 into Video inmate Norelus is patted down. Officer Navarrete then assist's Norelus in placing Norelus's hands higher onto the wall.
7. During the time Norelus is on the wall {which he is the only one} Valdez and Navarrete walk around him, create distance, turn their back on him but seem to maintain a dialog.
8. There does not seem to be any apparent reason to have this inmate left on the wall for this amount of time based on the inmate's actions seen on the video.
9. Navarrete and Valdez wonder around him for approximately 9 minutes as many other inmates walk past and see Norelus left up against the wall with his hands still up.
10. At 10:40 into the video Navarrete leans up against the wall with his feet crossed. This position is not indicative to an officer attempting to maintain control of a "con-compliant and verbally abusive" inmate.
11. At 10:41 into video, inmate Norelus appears to be looking at his watch. He has been on the wall now approximately 9 minutes with his arms up.

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00791

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**INVESTIGATOR NOTES CONT.**

12. At 10:48 into video, officer Valdez approaches inmate Norelus from behind as Norelus seem to be talking to Navarrete who is still against the wall. No sudden movements or turns are seen by inmate Norelus to this point.
13. Valdez places his body against Norelus's body placing Norelus's chest against the wall. {Norelus's hands are still on the wall.}
14. Valdez's first hand on move is to reach around Norelus's neck and throat area and pull Norelus back. The last thing to leave the wall is Norelus's hands.
15. Valdez pulls Norelus back and Norelus is turned to the left where him and Valdez are now face to face when they go to the ground.
16. Both officers testified and maintain they were attempting to restrain an non-compliant and verbally abusive inmate. At no time did either officer attempt to restrain inmate Norelus until he was on the ground on the sidewalk. There did not seem to be any orders for Norelus to submit to restraints.
17. No other staff was interviewed in this case as nobody was in close proximity to the Use of Force when it occurred or just prior.

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JA 1063

Page 14 of 14  
Subject:

**ADDENDA**

1. Available upon request, video of use of force on October 09, 2016 at SDCC by Officer Navarrete, Jose.
2. IN-2016-0313 Investigative report

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## Addendum #1

Available upon request, video of use of force on October 09, 2016 at SDCC by Officer Valdez, Paul.

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JA 1071

STATE OF NEVADA

DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL

CASE NO: IN-2016-313

INVESTIGATION REPORT

Investigation Type: Oppression Under the Color of Law

Victim/Involved Person Inmate Rickie Norelus, 1104257

Address Southern Desert Correctional Center, Indian Springs Nevada

Location of Occurrence: Southern Desert Correctional Center, Indian Springs Nevada

Date & Time of Occurrence: October 9, 2016 6:45 a.m. Date Assigned: October 12, 2016

Assigned Investigator(s): David Molnar  
James Jones

Case Status/Disposition: Referred to Warden ( ) Referred to Attorney General (XX)  
Referred to Outside Agency ( ) Referred to District Attorney ( )

Closed ( )

By Arrest ( )  
(Criminal Charges Filed)

Other ( )  
(Criminal Charges Declined or Insufficient Evidence to Arrest/Charge)

Inmate Discipline ( )  
(Referred to Institution for Appropriate Action on Inmate)

No Further Action/Resolved ( )  
(Non-Criminal Matter Resolved)

Unfounded ( )  
(Investigation Disclosed Incident did not occur)

Inactive ( )  
(Per Director/IG or Referred to another agency for investigation)

Investigation Continues ( )

Further Investigation ( )

Pending Prosecution Decision ( )  
(By Appropriate Prosecutor's Office)

Investigator  
Office of the Inspector General

APPROVED

Supervisor

Pamela Del Porto  
Inspector General

Report Date

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#1 of 7

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00804

JA 1073

**Additional Victims/Involved Persons:**

David Wachter  
Correctional Officer  
Southern Desert Correctional Center  
(702) 879-3800

**Suspects:**

Paul Valdez  
Correctional Officer  
Southern Desert Correctional Center  
(702) 879-3800

Jose Navarrete  
Senior Correctional Officer  
Southern Desert Correctional Center  
(702) 879-3800

**Witness List:**

Minor Adams  
Associate Warden  
Southern Desert Correctional Center  
(702) 879-3800

David Molnar  
Supervisory Criminal Investigator  
Casa Grande Transitional Housing  
(702) 486-9924

James Jones  
Criminal Investigator  
Casa Grande Transitional Housing  
(702) 486-9913

Inmate Michael White  
110991  
Southern Desert Correctional Center

Inmate Lawrence Williams  
15136  
Southern Desert Correctional Center

**ADDENDUM 2**

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00805

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Case No.IN-2014-156  
Page 3 of 7

Inmate Ralph Jackson  
64883  
Southern Desert Correctional Center

ADDENDUM 2

#3 of 7

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JA 1077



**Source Of Activity:**

On October 9, 2016, a spontaneous use of force occurred at the Southern Desert Correctional Center. Staff reported that during a routine pat search inmate Rickie Norelus, 1104257, turned aggressively towards staff prompting the spontaneous use of force. The incident prompted Correctional Officer Paul Valdez to administratively charge Norelus by submitting the following report;

*On October 9, 2016 I CO Valdez assigned to Search and Escort from 0500-1300. At approximately 0645 during morning breakfast inmate Norelus, R 1104257 was placed on the wall. While inmate Norelus was on the wall he was told multiple times by me and SCO Navarrete to keep his hands on the wall. Inmate Norelus kept taking his hands off the wall saying "what are you going to do"? after several commands I attempted to place him restraints. When attempting to place him in restraints, I told Inmate Norelus don't move your hands. Inmate Norelus again stated "what are you going to do"? and moved his hands off the wall and turned in an aggressive manner which resulted in a spontaneous use of force. Inmate was placed in restraints medical was called and inmate was taken to the infirmary.*

The incident also caused Senior Correctional Officer Navarrete to submit the following witness statement;

*On October 9, 2016 I, Senior Correctional Officer Navarrete was assigned to Search and Escort at Southern Desert Correctional Center. At approximately 06:45 hours inmate Norelus #1104257 came off the Culinary wall while C/O Valdez was attempting to restrain him resulting in a spontaneous use of force. When inmate Norelus came off the wall he was resisting and both he and C/O Valdez went to the ground. I then assisted in holding the inmates upper body down so that C/O Valdez could restrain him. I notified supervisors and called medical so that they could respond to the scene. Medical responded and inmate Norelus was escorted to the infirmary to be further evaluated.*

Minor Adams, Associate Warden, obtained video footage of the incident recovered from a stationary camera mounted to the Culinary Building. Adams found the actions of the officers to be contrary to accepted practices and believing that the officers engaged in excessive use of force, requested a criminal investigation be initiated by the Office of the Inspector General.

**Investigation:**

On or about October 12, 2016 Supervisory Criminal Investigator David Molnar was assigned to investigate allegations of excessive use of force. Molnar reviewed the video footage provided by Adams. The video depicts correctional officers conducting random pat down searches of inmates departing the culinary after morning meal on October 9, 2016.

Random pat searches of inmates exiting dining facilities is a common practice utilized at virtually all correctional organizations. The practice is utilized to reduce the movement of dangerous contraband and deters inmates from transporting unauthorized food items into the

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00810  
JA 1079

housing units which may lead to serious health and safety issues. The searches are usually conducted in an expedient manner designed to target obvious hiding areas such as pockets, waistbands and socks. The searches also serve as a deterrent for inmates to attempt to traffic contraband.

Molnar noticed that one inmate in particular was directed to stand against the wall for an extended period of time. The inmate, later identified as Norelus, appeared to have the undivided attention of two correctional officers, later identified as Correctional Officers Valdez and Navarrete. After approximately eleven minutes, Officer Valdez approached Norelus from the rear and placed his right arm around the inmate's neck, then pulled him violently to the ground. Both Valdez and Navarrete subsequently placed Norelus in restraints and called for assistance. At no point did the inmate appear to be resisting the officers, nor did it appear that at any time he posed a physical threat as depicted in the officer's reports.

On October 13, 2016, Molnar interviewed Norelus at the Southern Desert Correctional Center. Norelus stated that Officers Valdez and Navarrete had been singling him out to be pat searched for the past two weeks. He stated the two routinely call him names which he believes was an attempt to entice him into a physical confrontation. Norelus stated that on October 9, 2016, he was once again singled out to be searched. He stated that Valdez made numerous comments, calling him "Fag" and "Bitch." Norelus stated that Valdez also stated "I can't believe no one's beat your ass yet." Norelus admitted that he also replied to Valdez' comments by agreeing with the comments made by Valdez by saying things such as "Ya, I'm a fag" and "Ya, I'm a bitch." Norelus surmised that by agreeing with Valdez' comments and not addressing the officer in a threatening manner or being physically assaultive, served to make Valdez angry. Norelus stated that Valdez subsequently attacked him from behind and threw him to the ground where Navarrete assisted in placing him in restraints. Norelus reiterated that he did nothing to provoke the use of force and did not resist the officers after being thrown to the ground. Norelus stated he did not suffer any physical injury, but that he suffers from mental disorders which he believes have been compounded by the incident.

Molnar then attempted to identify inmates portrayed in the video as witnesses to the incident. Molnar located inmate Michael White, 110991. White stated that Navarrete and Valdez were always "going at it" with Norelus. White stated that on October 9, 2016, he heard the officers calling Norelus "gay words." White also stated that he once tried to tell Navarrete and Valdez that Norelus has "a mental problem" but the officers continued to harass Norelus.

Inmate Lawrence Williams, 15136, stated that Norelus is known to have "mental issues." He stated that on October 9, 2016, he observed that Navarrete and Valdez had Norelus against the wall for an extended period of time and overheard an officer say to Norelus, "I surprised no one has beat your ass yet."

Inmate Ralph Jackson, 64883, stated that on October 9, 2016, he overheard an officer tell Norelus, "I'm surprised no one has whooped your ass yet because you have a smart-assed mouth." Jackson also had a handwritten statement that he intended to send to the prison administration. The letter alleges that staff are targeting African American inmates and forcing

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00811

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00812  
JA 1081

them to stand against the wall for extended periods of time. Jackson requested administrative staff conduct a review of the practices. Jackson provided Molnar with the handwritten letter.

During Molnar's review of the incident, a third officer, David Wachter, is seen coming out of the Culinary Building, having a brief encounter with Navarrete and Valdez, then moving out of the area, presumably to monitor inmate movement into the Culinary Building.

On October 18, 2016, Molnar and Criminal Investigator, James Jones, conducted a recorded interview with Wachter at the Southern Desert Correctional Center. Wachter stated he came out of the Culinary Building and saw Officers Navarrete and Valdez with an inmate who had been placed against the wall for a pat search. Wachter stated he then went to supervise another unit entering the Culinary Building. Wachter stated he heard a commotion and turned to see Valdez involved in a use of force. Wachter stated that he had viewed the video footage prior to being interviewed and acknowledged that the inmate had been standing at the wall for an extended period of time. Wachter stated he could not hear the conversation between the inmate and the officers. Wachter stated that based on his review of the video footage, the use of force was not appropriate. Wachter also stated that he had previously counseled Valdez regarding Valdez' interactions with inmates. Wachter stated he advised Valdez that "Our job is to quell situations, not get them riled up." Wachter stated he was able to view the video footage in the culinary office.

Navarrete and Valdez were subsequently placed on Administrative Leave pending investigation.

On October 19, 2016, Molnar and Jones attempted to interview Navarrete at the Casa Grande Transitional Housing. Navarrete invoked his Miranda rights.

On October 19, 2016, Molnar and Jones attempted to interview Valdez at the Casa Grande Transitional Housing. Valdez invoked his Miranda rights.

**Arrest:**

N/A

**Booking:**

N/A

**Findings:**

The October 9, 2016 video footage involving Navarrete, Valdez and inmate Norelus clearly depict a well-orchestrated and apparent premeditated, unnecessary use of force against Norelus. The video depicts Norelus being directed to stand with his hands against the wall for an inordinate amount of time. The video does not depict Valdez attempting to place Norelus in restraints, nor does it depict Norelus acting in a threatening manner. Moreover, the officer's subsequent written reports do not remotely coincide with the actual events that transpired. It is

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apparent that Navarrete and Valdez authored official reports in an attempt to shield themselves from their criminal behavior.

Based on the aforementioned facts, it is recommended that Officer Valdez be charged with Oppression Under the Color of Office, in violation of NRS 197.200, Battery, in violation of NRS200.481 and False Report by Public Officer, in violation of NRS 197.130.

It is recommended that Navarrete be charged with Oppression Under the Color of Office, in violation of NRS 197.200 and False Report by Public Officer, in violation of NRS 197.130.

**Evidence:**

October 9, 2016 video footage of the incident

October 9, 2016 video footage of staff response to incident

Recorded interview of Officer Wachter

Recorded interview of Navarrete

Recorded interview of Valdez

Letter authored by inmate Ralph Jackson, 64883

SDCC Incident Information File including;

Photos taken of Norelus

Medical/Injury Report

Booking Report, Norelus

Notice of Classification/Notice of Charges

SDCC Operational Procedures

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JA 1085



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Carson City, NV 89701  
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Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9938



**State of Nevada  
Department of Corrections**

Brian Sandoval  
Governor

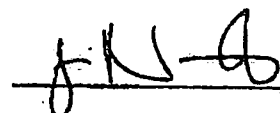
James Dzurenda  
Director

**To: Navarrete, Jose**  
**From: Jo E. Gentry, SDCC**  
**Date: 12/13/16**  
**Subject: RESULT OF ADJUDICATION**  
**IA-2016-0145-1**

---

The adjudication of the above referenced Personnel Misconduct Complaint investigation has been completed. The misconduct allegation was classified as Sustained. The matter is being referred for a Specificity of Charges.

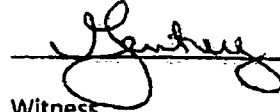
This recommendation is subject to final review and concurrence by the Department Human Resources' Office and/or Attorney General's Office.

  
\_\_\_\_\_

Employee's Signature

12-13-16

Date

  
\_\_\_\_\_

Witness

12-13-16

Date

**NDOC 0089**

00817

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**STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
EMPLOYEE MISCONDUCT ADJUDICATION REPORT**

**DATE:** December 12, 2016  
**TO:** Quentin Byrne, Deputy Director  
**VIA:** Office of the Inspector General  
**FROM:** Jo E. Gentry, Warden  
**SUBJECT:** Adjudication Report – IA-2016-0145-1

Complaint by:

The complaint investigation IA-2016-0145-1 resulted in two allegations of misconduct against one Department employee:

Jose Navarrete, #41181  
Senior Correctional Officer  
Southern Desert Correctional Center

  
Jo Gentry

December 12, 2016  
Date

Reviewed By: \_\_\_\_\_

\_\_\_\_\_  
Date

X Agree    ☐ Disagree

**NDOC 0091**  
00819  
JA 1088

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JA 1089

The allegations are listed below with recommendations for classification, corrective/disciplinary action, and supporting rationales.

#### **ALLEGATION 1**

**It is alleged that Navarrete, Jose engaged in UNAUTHORIZED USE OF FORCE, when on October 10, 2016 officer Valdez grabbed inmate Norelus, Rickie 1104257 around the neck and took the inmate to the ground without sufficient cause to do so and as the Senior Correctional Officer, Navarrete allowed this unauthorized Use of Force without proper intervention.**

#### **CLASSIFICATION**

It is recommended that this allegation be classified as Sustained.  
AR 339.07.17.A. – CLASS 4-5

#### **RATIONALE**

Based upon written documentation there is sufficient evidence to sustain this allegation. Senior Correctional Officer Navarrete was the assigned Lead Search and Escort Officer was present during the Use of Force incident that had taken place on October 10, 2016 and was the immediate supervisor of Correctional Officer Valdez on this date. While supervising the evening dinner meal, Senior Officer Navarrete and Officer Valdez ordered Inmate Norelus to place his hands on the outside wall of the culinary dining area and ordered the inmate not to move. Senior Officer Navarrete and Officer Valdez mandated this inmate to stay in this position for approximately 15 – 16 minutes. Video recording substantiates that Senior Officer Navarrete and Officer Valdez were present during this entire time. Video recordings show that Officer Navarrete is leaning against the wall with his feet crossed only a few feet away from the inmate. Video recording depicts Officer Valdez rushing to the inmate, placing hand/arm around the inmate's neck/throat area, and pulling the inmate's back ultimately both falling to the ground. There is no evidence of any serious threat to the safety of staff, public, inmates, and/or prison security within the recording. There is no evidence of the inmate displaying any physical threats towards the staff members. In fact, the inmate's hands were still on the wall when Officer Valdez pulled him from the wall. At no time during the video recording did it show Senior Correctional Officer Navarrete intervening during this incident.

#### **ALLEGATION 2**

**It is alleged that Navarrete, Jose engaged in FALSE AND MISLEADING STATEMENTS, when officer Navarrete knowingly completed and submitted a report documenting the events of the Use of Force that were not compatible with what was viewed in the video of the same Use of Force.**

#### **CLASSIFICATION**

It is recommended that this allegation be classified as Sustained.  
AR 339.07.9.A. – CLASS 5

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Date: 7/10/2017

Signature: *Teri Witherell*

**COPY**

**NDOC 0094**  
00822  
JA 1091

**RATIONALE**

Based upon written documentation there is sufficient evidence to sustain this allegation. Video Recording of this incident does not substantiate the written report entered by Senior Correctional Officer Navarrete. Officer Navarrete indicates that he witnessed Inmate Norelus coming “off the wall while C/O Valdez was attempting to restrain him resulting in a spontaneous use of force.” And when “Inmate Norelus came off the wall he was resisting.” Video recording of the incident indicates that Inmate Norelus did not move off the wall, in fact both his hands were still on the wall when Officer Valdez pulled him from the wall. Furthermore, the video recording did not show Officer Valdez attempting to restrain the inmate when he approached the inmate.

**CORRECTIVE/DISCIPLINARY ACTION RECOMMENDATION**

It is recommended that Jose Navarrete receive a Specificity of Charges – consisting of dismissal from state service resulting from sustained Class 5 allegations.

**DEPUTY DIRECTOR CONCURRENCE**

Quentin Byrne has reviewed this adjudication and agrees with the recommendations contained.

**EMPLOYEE NOTIFICATION**

On December 13, 2016 Senior Correctional Officer Jose Navarrete met with Warden Gentry and notified him concerning the outcome of the investigation. Senior Correctional Officer Navarrete was provided a copy of the “Result of Adjudication Report.”

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of this document as contained  
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Nevada Department of Corrections.

Date: 7/10/2017

Signature: Leri Withersell

**COPY**

**NDOC 0096**

00824

JA 1093





State of Nevada  
Department of Corrections

Employee Identification Flyer

*Suspect*  
**SOUTHERN DESERT CORRECTIONAL CENTER**

Employee Name: NAVARRETE JOSE

Date of Birth:

Gender:

Emergency Contact:

Employee ID: 41181

Position Class - Title: 13.312 - Sr Correctional Officer

Status: "ACTIVE" as of 05/08/2008



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Date: 7/10/2017

Signature: Teri Withers

**COPY**

**NDOC 0098**

00826

JA 1095



State of Nevada  
Department of Corrections

Employee Identification Flyer

**SOUTHERN DESERT CORRECTIONAL CENTER** <sup>Suspect</sup>

Employee Name: VALDEZ, PAUL

Date of Birth:

Gender:

Emergency Contact:

Employee ID: 52887

Position Class Title: 13.313 Correctional Officer

Status: ACTIVE as of 11/20/2013



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Signature: Teri Withnell

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**NDOC 0100**

00828

JA 1097



State of Nevada  
Department of Corrections

**SOUTHERN DESERT CORRECTIONAL CENTER**

Employee Name: WACHTER, DAVID

Date of Birth:

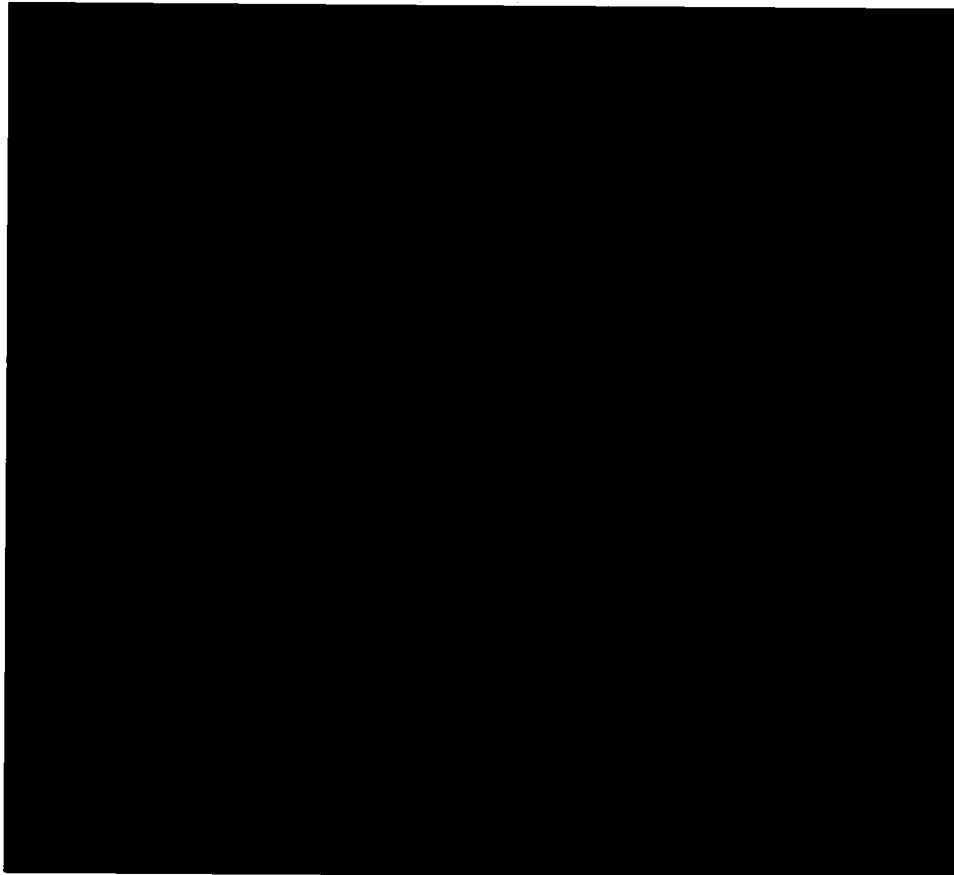
Gender:

Emergency Contact:

Employee ID: 54813

Position Class - Title: 13.313 - Correctional Officer

Status: "ACTIVE" as of 08/12/2014



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Nevada Department of Corrections.

Date: 1/10/2017

Signature: Ali W. White

**COPY**

**NDOC 0102**  
00830  
JA 1099



State of Nevada  
Department of Corrections

**THREE LAKES VALLEY CONSERVATION CAMP**

Employee Name: WILLETT, DEAN

Date of Birth: [REDACTED]

Gender: Male

Emergency Contact: SROUSE [REDACTED]

Employee ID: 40254

Position Class - Title: 13-311 - Correctional Sergeant

Status: "ACTIVE" as of 01/17/2003



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Nevada Department of Corrections.  
Date: 7/10/2017  
Signature: *Keith H. Hetherell*

**COPY**

**NDOC 0104**  
00832  
JA 1101





State of Nevada  
Department of Corrections

**SOUTHERN DESERT CORRECTIONAL CENTER**

Employee Name: KNATZ, TIMOTHY

Date of Birth:

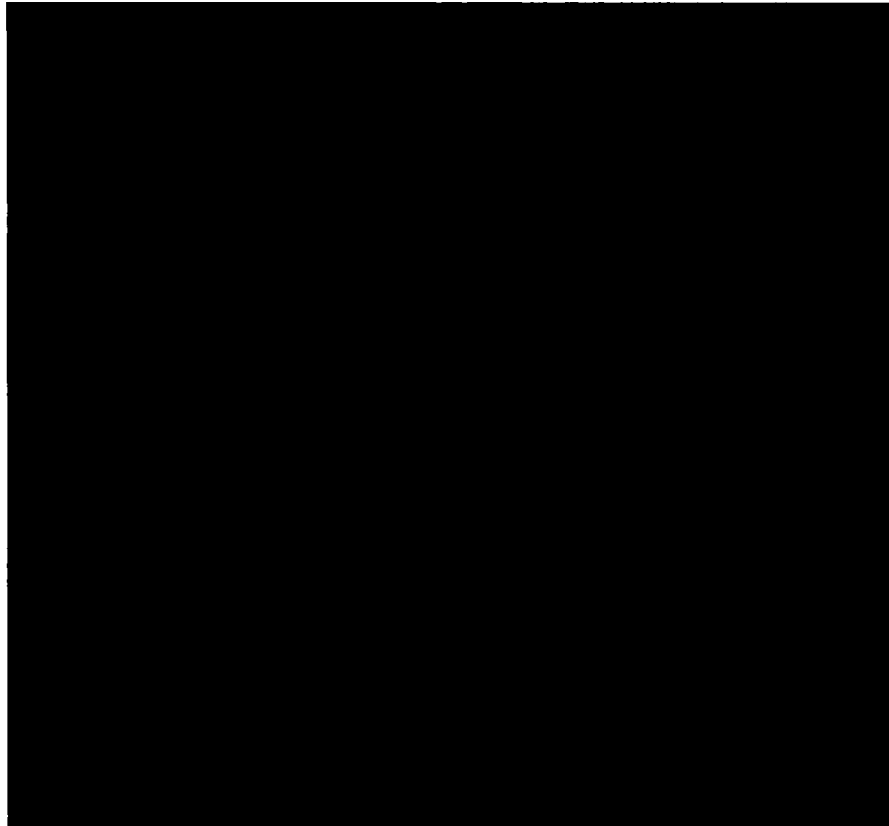
Gender: Male

Emergency Contact:

Employee ID: 47239

Position Class - Title: 13.312 - Sr Correctional Officer

Status: "ACTIVE" as of 08/08/2011



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Nevada Department of Corrections.

Date: 7/10/2017

Signature: *Teri W. Howell*

**COPY**

**NDOC 0106**  
00834  
JA 1103



State of Nevada Department of Corrections  
Booking Summary Report for: October 26, 2016

Page 1 of 1

OFFENDER:

NDOC ID#: 1104257  
BOOKING ID#: 2013-066988 (ACTIVE)  
NAME: NORELUS, RICKIE  
DOB: [REDACTED]  
AGE: 25  
ADDRESS: [REDACTED]

GENDER: MALE  
POB: LAS VEGAS  
ADMIN DATE: 06/20/2013  
COMMIT COUNTY: CLARK  
TERM MIN/MAX: 36 MONTHS 0 DAYS, 120 MONTHS 0 DAYS

DESCRIPTION:

HEIGHT: 5-6  
WEIGHT: 150  
BIRTH CERTIFICATE ON FILE?: YES  
EYE COLOR: BROWN  
HAIR COLOR: BLACK  
SSN CARD IN FILE?: YES  
FACIAL HAIR: YES  
STATE ID CARD IN FILE?: NO  
MEDICAID CARD ON FILE?: NO  
U.S. CITIZEN: YES  
RELIGIOUS FAITH?: CHRISTIAN  
BUILD: [REDACTED]  
COMPLEXION: DARK  
DEXTERITY: [REDACTED]  
ETHNICITY: BLACK  
CENTRAL MONITORING CASE: NO  
DNA REQUIRED?: YES  
DNA TAKEN: [REDACTED]  
EMP / SCHOOL 6 MO PRIOR TO ARREST?: 0-6 MONTHS  
EVALUATION PERIOD? (IF APPLICABLE): [REDACTED]  
FILE LOCATION?: [REDACTED]  
GLASSES REQUIRED?: NO  
HAS OFFENDER BEEN IN FOSTER CARE?: NO  
INTEREST TO IMMIGRATION?: NO  
NUMBER OF CHILDREN: 01  
SMOKER?: YES

NORELUS, RICKIE

1104257



IDENTIFICATION:

P & P BIN: [REDACTED]  
OTHER JURISDICTION ID: [REDACTED]  
FEDERAL BUREAU OF INVESTIGATION NUMBER: [REDACTED]  
SOCIAL SECURITY NUMBER: [REDACTED]  
STATE IDENTIFICATION NUMBER: [REDACTED]

COMMITMENT ORDERS / HOLDS AND DETAINERS:

COMMITMENT ORDER#: C287075-1 / STATUTE: 200.481 / OFFENSE: (3447) - ATT BATTERY CAUSING SUBST HARM  
COMMITMENT ORDER#: C288392-1 / STATUTE: 200.481 / OFFENSE: (148) - BATTERY W/ DEADLY WEAPON  
FELONY HOLD#: C287075

ALERTS:

NONE LISTED

IDENTIFYING MARKS:

[Scar] Face SCARS ON FOREHEAD  
[Scar] Back SCARS ON BACK

ALSO KNOWN AS:

(DOB: 11/06/1990) - NORELUS, RICKY. A  
(DOB: 11/06/1990) - NORELUS, RICKY  
(DOB: 11/06/1990) - NORELUS, RICKY. ANTOIN

GANG AFFILIATION:

NONE LISTED

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of this document as contained  
in the official records of the  
Nevada Department of Corrections.

Date: 7/10/17

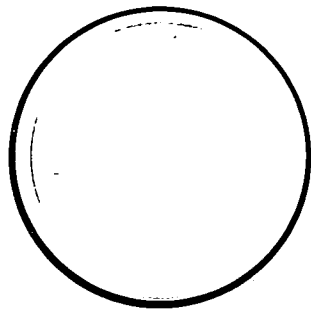
Signature: Lori Withard

**COPY** ND0C 0110

00836

JA 1105

NAVARETTE v. NL  
Appeal no 1713379-MG

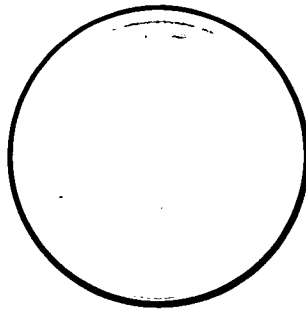


Audio files  
NDOC 0111

Navarette, Jose  
Case # 1713379-MG

AUDIO  
NDOC 0111

NAVARETTE V NDOC  
Appeal NO 1713379-M



Video file  
NDOC 0112

Navarette, Jose  
Case # 1713379-MG

VIDEO  
NDOC 0112

# EXHIBIT B

# EXHIBIT B

~~Respondent's~~ EXHIBIT # B

Northern Administration  
5500 Snyder Ave.  
Carson City, NV 89701  
(775) 887-3204

Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9906



State of Nevada  
Department of Corrections

Brian Sandoval  
Governor

James Dzurenda  
Director

Sharlet Gabriel  
HR Administrator

April 19, 2017

Jose Navarrete  
7547 Rolling River Drive  
Las Vegas, Nevada 89131

RE: Specificity # SP 1642S

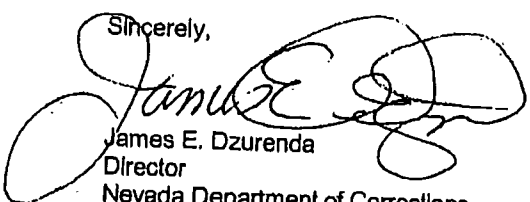
Dear Mr. Navarrete:

On March 16, 2017, you were served a specificity of charges for alleged violations of NAC 284.650 and AR 339.

A pre-disciplinary hearing was scheduled for you on April 12, 2017 with Perry Russell, AW. After review of the specificity of charges and the pre-disciplinary hearing report, it is the Department's decision that you be terminated from State service effective April 21, 2017.


This is to inform you that you have ten (10) working days to appeal this disciplinary action from the effective date of April 21, 2017. If you wish to appeal, such request must be on the prescribed "Formal Appeal Form" (NPD 54) and addressed to the Administrator, Division of Human Resource Management at 100 North Stewart Street, Suite 200, Carson City, NV 89701, phone number 775-684-0109.

Sincerely,

  
James E. Dzurenda  
Director  
Nevada Department of Corrections

JD/ns

Enc: Pre-disciplinary Hearing Officer Report

*Refused  
To Sign*  


Human Resources Division  
Las Vegas, NV  
3955 W. Russell Road  
Las Vegas, Nevada 89118  
Phone (702) 486-9914  
Fax (702) 486-9974

Human Resources Office  
Carson City, Nevada  
P.O. Box 7011  
Carson City, Nevada 89702  
Phone (775) 887-3204  
Fax (775) 887-3391

Human Resources Office  
Lovelock, Nevada  
1200 Prison Rd  
Lovelock, Nevada 89419  
Phone (775) 273-4232  
Fax (775) 273-4228

Human Resources Office  
Ely, Nevada  
P.O. Box 1989  
Ely, Nevada 89301  
Phone (775) 289-1218  
Fax (775) 289-2121

00840

JA 1109



Northern Administration  
5500 Snyder Ave.  
Carson City, NV 89701  
(775) 887-3285

Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9938



State of Nevada  
Department of Corrections

Brian Sandoval  
Governor

James Dzurenda  
Director

Brian E. Williams, Sr.  
Warden

MEMORANDUM

Date: April 12, 2017

To: James Dzurenda, Director, Nevada Department of Corrections

From: Perry Russell, Associate Warden *Perry Russell*

Re: Pre-Disciplinary Hearing for Senior Correctional Officer Jose Navarrete, SP-1642S

On Wednesday, April 12, 2017 at approximately 9:50 am, a pre-disciplinary hearing was held for Jose Navarrete.

Present at the hearing were:

- Jose Navarrete, Senior Correctional Officer
- William T. Sykes, ESQ., representative
- Perry Russell, Associate Warden of Programs

The purpose of the hearing was explained to S/CO Navarrete.

SC/O Navarrete made the following comments:

- Claims that he should not be dismissed for what occurred by another officer.
- Navarrete claims that he did not complete his report until hours later after doing other duties.
- He claims that people's memories can be faulty over a period of time. He claims that he did not intentionally write a false report, he thought that Valdez tried to restrain the inmate and was not premeditated. He claims his memory is faulty and he thought Valdez tried to restrain him and resist against Valdez.
- Navarrete claims that at no time did he know that Valdez would be involved in a Use of Force and he could not have prevented it.
- Navarrete claims that he followed procedure once the Use of Force occurred. He claims that he was not involved in the use of force.
- Navarrete has worked for the state of Nevada for nine years now, met standards every year and has not been a disciplinary problem.

Summary:

Senior Correctional Officer Jose Navarrete was assigned as Lead Search and Escort Officer present during the Use of Force incident that had taken place on October 09, 2016 at Southern Desert Correctional Center and was the immediate supervisor of Correctional Officer Valdez. While supervising the morning breakfast meal, Senior Officer Navarrete and Officer Valdez ordered Inmate Norelus to place his hands on the outside wall of the

High Desert State Prison  
22010 Cold Creek Road  
Indian Springs, NV 89070  
(702) 879-6789

NDOC 0114

Page 1 of 2  
00841

JA 1110

Northern Administration  
5500 Snyder Ave.  
Carson City, NV 89701  
(775) 887-3285

Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9938



**State of Nevada  
Department of Corrections**

Brian Sandoval  
Governor

James Dzurenda  
Director

Brian E. Williams, Sr.  
Warden

Culinary dining area and ordered the Inmate not to move. Senior Officer Navarrete and Officer Valdez mandated this Inmate to stay in this position for approximately 15 to 16 minutes. Video recording depicts Officer Valdez approaching the inmate, placing hand/arm around the Inmate's throat and pulling him back to where both ended up on the ground. Senior Correctional Officer Navarrete completed and submitted a report documenting the events of the Use of Force that were not compatible or consistent with what is viewed in the video of the same Use of Force.

**Conclusion:**

I concur with the recommended discipline for Senior Correctional Officer Jose Navarrete to be terminated from State Service.

Senior Correctional Officer Navarrete's termination would be in the best interest in the State of Nevada, as a representative of the state Senior Officer Navarrete allowed excessive Force and wrote his report which does not attempt to accurately depict what occurred on that date. In Senior Navarrete's report he claims that C/O Valdez was attempting to restrain Inmate Norelus. Senior Navarrete claimed that when inmate Norelus came off the wall he was resisting. There is no mention of Officer Valdez pushing the Inmate into the wall and grabbing the inmate around the neck to take him down after a 15 to 16 minute period where this Senior officer could have thought of alternatives for this inmate to be held there for so long. The investigation revealed that the Inmate has his hands on the wall above his head for over ten minutes and is grabbed around the neck from behind by Officer Valdez and thrown back where they both fell to the ground. There was no threat to the officer from the Inmate when Officer Valdez came from behind and dropped the inmate to the ground. There is no mention of anything that occurred in Senior Officer Navarrete's report. Per the investigation the inmate's hands were on the wall above his head when Officer Valdez chose to push the inmate into the wall and wrestle the Inmate by the neck to the ground. There is no acceptable explanation for this incident, and Senior Navarrete had a responsibility to attempt to stop the activity and further accurately report its occurrence.

cc: Quentin Byrne, Deputy Director, Nevada Department of Corrections  
David Wright, Personnel Officer 2, Nevada Department of Corrections  
Jo Gentry, Warden, Southern Desert Correctional Center

PR/hs

---

High Desert State Prison  
22010 Cold Creek Road  
Indian Springs, NV 89070  
(702) 879-6789

**NDOC 0115**

Page 2 of 2  
00842

JA 1111

# EXHIBIT C

# EXHIBIT C

~~Respondent's~~ EXHIBIT # C

Northern Administration  
5500 Snyder Ave.  
Carson City, NV 89701  
(775) 887-3204

Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9906



State of Nevada  
Department of Corrections

Brian Sandoval  
Governor

James Dzurenda  
Director

Sharlet Gabriel  
HR Administrator

April 19, 2017

Jose Navarrete  
7547 Rolling River Drive  
Las Vegas, Nevada 89131

RE: Specificity # SP 1642S

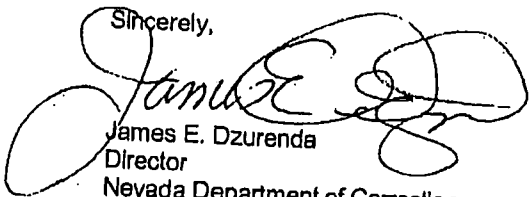
Dear Mr. Navarrete:

On March 16, 2017, you were served a specificity of charges for alleged violations of NAC 284.650 and AR 339.

A pre-disciplinary hearing was scheduled for you on April 12, 2017 with Perry Russell, AW. After review of the specificity of charges and the pre-disciplinary hearing report, it is the Department's decision that you be terminated from State service effective April 21, 2017.


This is to inform you that you have ten (10) working days to appeal this disciplinary action from the effective date of April 21, 2017. If you wish to appeal, such request must be on the prescribed "Formal Appeal Form" (NPD 54) and addressed to the Administrator, Division of Human Resource Management at 100 North Stewart Street, Suite 200, Carson City, NV 89701, phone number 775-684-0109.

Sincerely,

  
James E. Dzurenda  
Director  
Nevada Department of Corrections

JD/ns

Enc: Pre-disciplinary Hearing Officer Report

*Refused  
To Sign*  


Human Resources Division  
Las Vegas, NV  
3955 W. Russell Road  
Las Vegas, Nevada 89118  
Phone (702) 486-9914  
Fax (702) 486-9974

Human Resources Office  
Carson City, Nevada  
P.O. Box 7011  
Carson City, Nevada 89702  
Phone (775) 887-3204  
Fax (775) 887-3391

Human Resources Office  
Lovelock, Nevada  
1200 Prison Rd  
Lovelock, Nevada 89719  
Phone (775) 273-4231  
Fax (775) 273-4228

Human Resources Office  
Ely, Nevada  
P.O. Box 1989  
Ely, Nevada 89301  
Phone (775) 289-1218  
Fax (775) 289-2121

JA 1113

**STATE OF NEVADA  
SPECIFICITY OF CHARGES**

**SP-1642S**

Name: Navarrete, Jose

Employee ID#: 41181

Budget Account: 3738

Current Class: Senior Correctional Officer

Grade: 34 Step: 04

Supervisor: Minor Adams, A.W.

Department: Corrections

Division: SDCC Section: Custody

Date: 3/14/17

Time: 10:45 a.m.

This is to inform you that you are alleged to have violated section 284.650 of the Nevada Administrative Code, as follows:

Date(s)	Violation(s)
See Attached	See Attached

A recommendation has been made by: Jo Gentry

Name

Warden

Title

that it is in the best interest of the State of Nevada to take the following disciplinary action(s):

Terminated from State service

Proposed/Actual Effective Date: 4/5/17- 4/21/17

[Signature]  
Signature (Person recommending action)

[Signature]  
Witness:

☒ In accordance with NAC 284.656, a hearing has been scheduled on your behalf to determine whether such action is warranted. Following the hearing and prior to the proposed effective date, you will be given a copy of the finding(s) and recommendation(s), if any, resulting from the hearing and be informed in writing of the appointing authority's decision regarding the recommended action(s).  
☐ In accordance with paragraph 2(b) of NAC 284.6563, the effective date of your discipline is immediate as noted above. A hearing in accordance with NAC 284.656 will follow as soon as practicable after the effective date of your discipline.

Note: If you wish to appeal your discipline, please be aware that pursuant to NRS 284.390, an appeal is deemed timely if it is postmarked within 10 working days after the proposed effective date of the disciplinary action.

The hearing will be conducted by:

Gabriel Garcia Perry Russell  
Associate Warden

4/12/17

Name High Desert State Prison Title 22010 Cold Creek Rd, Indian Springs, NV at 10:00 a.m. on 3/28/17

Date

at Casa Grande Transitional Housing--3955 W. Russell Road, Las Vegas, Nevada-89148 89070

Location (include complete address)

Pursuant to NAC 284.656, the hearing process is an informal proceeding between you and the appointing authority or his or her designated representative. Witnesses are not permitted. Each party may be accompanied by a person of his or her choice. Please refer to NAC 284.656 or direct questions concerning this notice and hearing to the appointing authority, personnel officer, or other agency personnel familiar with the procedure. (For information regarding the hearing and your right to waive the hearing, you should refer to NAC 284.6561.)

[Signature] Director

Signature of Appointing Authority or Designated Representative

Signature of Employee: I understand that by acknowledging receipt of this Specificity of Charges, I am neither admitting guilt nor giving up any appeal rights I may have under NRS 284.390.

[Signature]  
Employee's Signature

Date 3.16.17

Time 907a

Witness' Signature (Required if employee refuses to sign)

[Signature] Warden  
Signature and Title (Person serving this notice)

Copy: Division of Human Resource Management - Central Records Service Jacket; Department; Appointing Authority; Employee.

**NDOC 0117**

00845

JA 1114

Name: Navarrete, Jose  
Title: Senior Correctional Officer  
Duty Station: Southern Desert Correctional Center

**I. ADMINISTRATIVE REGULATIONS AND APPLICABLE POST ORDERS, DIRECTIVES, AND CODES TO BE CHARGED:**

**You are considered to be in violation of the following:**

- A. NAC 284.650 Causes for disciplinary action (NRS 284.065, 284.155, 284.383). Appropriate disciplinary or corrective action may be taken for the following causes:**

NAC 284.650(1) Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.

NAC 284.650(10) Dishonesty.

NAC 284.650(21) Any act of violence which arises out of or in the course of the performance of the employees duties, including without limitation, stalking, conduct that is threatening or intimidating, assault or battery.

- B. AR 339.05 CLASS OF OFFENSE GUIDELINES**

**AR 339.07.9 FALSE OR MISLEADING STATEMENTS**

- A.** Knowingly providing false or misleading statements, including omissions, either verbally or in written reports or other documents, concerning actions related to the performance of official duties. Or knowingly providing false or misleading statements, including omissions, in response to any question or request for information in any official investigation, interview, hearing or judicial proceeding. **CLASS 5**

**AR 339.07.17 UNAUTHORIZED USE OF FORCE**

- A.** Willfully employing or permitting the use of unnecessary, unauthorized, or excessive force. **CLASS 4-5**

**BRIEF SUMMARY OF FACTS:**

Senior Correctional Officer Jose Navarrete was the assigned Lead Search and Escort Officer present during the Use of Force incident that had taken place on October 9, 2016 at Southern Desert Correctional Center and was the immediate supervisor of Correctional Officer Valdez on this date.

While supervising the evening dinner meal, Senior Officer Navarrete and Officer Paul Valdez ordered Inmate Norelus to place his hands on the outside wall of the culinary dining area and ordered the inmate not to move. Senior Officer Navarrete and Officer Valdez mandated this inmate to stay in this position for approximately 15 – 16 minutes. Video recording depicts Officer Valdez approaching the inmate, placing hand/arm around the inmate's neck/throat area, and pulling the inmate's back ultimately both falling to the ground.

Name: Navarrete, Jose  
Title: Senior Correctional Officer  
Duty Station: Southern Desert Correctional Center

### BRIEF SUMMARY OF FACTS CONTINUED

Senior Correctional Officer Navarrete knowingly completed and submitted a report documenting the events of the Use of Force that were not compatible with what was viewed in the video of the same Use of Force.

### CONCLUSION AND BASIS FOR RECOMMENDATION:

Based on witness' statements, written documentation, and video recordings gathered during the investigation, there is sufficient evidence to sustain the aforementioned allegations whereas Senior Correctional Officer Navarrete failed to intervene or attempt to prevent the unauthorized use of force against Inmate Norelus.

Video recordings confirm that Senior Correctional Officer Navarrete was present during the entire incident beginning when the inmate was placed on the culinary wall up to the point when Officer Valdez grabbed the inmate's throat and pulled the inmate to the ground. The video recordings displayed no evidence of any serious threat to the safety of staff, public, inmates, and/or prison security. There was no evidence of the inmate displaying any physical threats towards the staff members. At no time during the video recording did it show Senior Correctional Officer Navarrete intervening during this incident. The video recording of this incident does not substantiate the written report entered by Senior Correctional Officer Navarrete. The video recording shows the inmate not breaking contact with the wall or moving aggressively towards any officer. The video recording does not show Officer Valdez attempting to restrain the inmate prior to using force.

The Department recommends that Senior Correctional Officer Jose Navarrete be terminated from State service.

II. **LENGTH OF EMPLOYMENT:** Hired with the Department on May 5, 2008

III. **PRIOR DISCIPLINARIES:** None

IV. **EVALUATIONS:**

Date	Rating
03-20-16	Meets Standards
03-19-15	Meets Standards
03-04-14	Meets Standards
11-05-13	Meets Standards
05-15-11	Meets Standards
05-19-10	Meets Standards
04-21-09	Meets Standards
12-07-08	Meets Standards

Name: Navarrete, Jose  
 Title: Senior Correctional Officer  
 Duty Station: Southern Desert Correctional Center

**V. TRAINING:**

Date	Hours	Topic of Training
08-22-16	40	CER
06-15	16	CER
06-14	8	CER
08-13	8	CER
05-20-13	40	BID
09-12	16	CER
10-11	16	CER
09-10	24	CER
09-18-08		Basic Training (PST)

**VI. LETTER OF REFERENCE, COMMENDATION AND/OR APPRECIATION: None**

**VIII. EXHIBITS:**

Exhibit	Date	Author	Description
<b>A</b>	12-8-16	Rod Moore Supervisory Criminal Investigator	Report of Personnel Complaint Investigation (IA-2016-145)
<b>B</b>	12-12-16	Jo Gentry Warden	Adjudication – IA-2016-0145-1
NRS 284.383, NRS 284.385			
NAC 284.650, NAC 284.646			
Administrative Regulation 339 – CODE OF ETHICS; EMPLOYEE CONDUCT; PROHIBITIONS AND PENALTIES			



Name: Navarrete, Jose  
Title: Senior Correctional Officer  
Duty Station: Southern Desert Correctional Center

**IX. NDOC ADMINISTRATIVE REGULATIONS:**

**339.01 CODE OF ETHICS**

1. Employees of the Nevada Department of Corrections should at all times adhere to the following Code of Ethics.

A. The Nevada Department of Corrections is committed to a code of ethics that will guide the performance, conduct and behavior of its employees. This code will ensure that our professionalism is reflected in the operation and activities of the Department and is recognized by all interested parties. In this light, the following principles are practiced:

- (1) Employees shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands.
- (2) Employees shall be courteous, considerate, and prompt when dealing with the public, realizing that we serve the public.
- (3) Employees shall maintain mutual respect and professional cooperation in their relationships with other staff members of the Department of Corrections.
- (4) Employees shall be firm, fair, and consistent in the performance of their duties. Employees should treat others with dignity, respect, and compassion and provide humane custody and care, void of all retribution, harassment, or abuse.
- (5) Employees shall uphold the tenets of the United States Constitution, its amendments, the Nevada Constitution, federal and State laws, rules, and regulations, and policies of the Department.
- (6) Whether on or off duty, in uniform or not, employees shall conduct themselves in a manner that will not tend to bring discredit or embarrassment to the Department of Corrections and the State of Nevada.
- (7) Employees shall report without reservation any corrupt or unethical behavior that could affect either inmates, employees, or the integrity of the Department of Corrections.
- (8) Employees shall not use their position for personal gain.
- (9) Employees shall maintain confidentiality of information that has been entrusted to them.
- (10) Employees shall not permit themselves to be placed under any kind of personal obligation that could lead any person to expect official favors.
- (11) Employees shall not accept or solicit from anyone, either directly or indirectly, anything of economic value, such as a gift, gratuity, favor, entertainment, or loan which is, or may appear to be, designed to influence their official conduct.
- (12) Employees shall not discriminate against any inmate, employee, or any member of the public on the basis of race, color, religion, sex, sexual orientation, age, disability, gender identity or expression, or national origin.
- (13) Employees shall not sexually harass or condone sexual harassment with or against any person, including but not limited to any inmate, employee, volunteer, vendor, or any member of the public.
- (14) Employees shall maintain the highest standards of personal hygiene, grooming and neatness while on duty or otherwise representing the Department.

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### **339.02 EMPLOYEE CONDUCT ON AND OFF DUTY**

1. All Department employees are responsible, at all times, to conduct themselves in an appropriate manner, with honor, integrity, and impartiality whether on or off duty, to obey and support the letter and spirit of the law, and to always exercise appropriate self-discipline in the use of the power and authority entrusted to them.
2. The penalty imposed for a violation of 339.07 Class of Offense Guidelines (18. R.), can range from a CLASS 1 – 5 violation depending upon the facts and circumstances of the particular case.
3. Under the law Peace Officers are expected to abide by the laws they are empowered to enforce. Peace Officer employees will obey all laws of the U.S., State of Nevada, and ordinances in force in their jurisdiction. Violations of law, an indictment or information filed against an officer, or a conviction can be cause for disciplinary action up to and including termination from employment, especially where off-duty conduct tends to bring the Department into public discredit or which tends to affect the employee's ability to perform assigned duties efficiently. Employees must also be careful that the authority vested in them as Peace Officers is not abused.

### **339.03 GOALS OF CORRECTIVE AND DISCIPLINARY MEASURES**

1. Public employees have an affirmative duty to serve the public. The public trusts that the Department will operate within legal and procedural boundaries. Occasionally an employee will step beyond these boundaries, resulting in a misconduct and/or performance complaint. Each time the Appointing Authority adjudicates a complaint public trust is impacted.
2. When an allegation of misconduct and/or performance is Sustained, corrective or disciplinary action shall be applied.
3. Disciplinary action is intended to serve three purposes which are weighed carefully when making recommendations:
  - A. To modify the offending employee's behavior.
  - B. To set expectations for other employees.
  - C. To assure the public that the Department strives to maintain the public trust by holding employees accountable.
4. The offending employee's Appointing Authority is generally the best person to review and recommend the corrective or disciplinary action that will best serve to modify that employee's behavior. However, the recommendation will be superseded if it does not set consistent expectations for all employees or fails to uphold the public trust.

### **339.04 REPORTING COMPLAINTS OR MISCONDUCT**

1. All Department employees, regardless of rank or position, who become aware of an alleged act of employee misconduct, are responsible to take immediate and appropriate action to control the situation, prevent aggravation of the incident, and notify their chain of command regarding the allegation.
2. All employees at any location must accept complaints of employee misconduct from any source, in any format. If the receiving employee is not a supervisor, a supervisor must be notified immediately.
  - A. Complaints may be based on affirmative acts or failures to act.
  - B. Any failure to comply with posted AR's, OP's, Post Orders, Unit Rules, or other procedures should be reported,
  - C. Lower level issues related to performance need not be investigated by Inspector General staff, as long as an "impartial fact-finding" process is followed.

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- D. An employee who takes a complaint from an outside source may provide the complainant with a copy of the completed NOTIS entry or DOC form 028, including any documentation.
  - E. An employee taking a complaint should have a supervisor or another employee take over if it becomes clear that the complaint is about the employee.
  - F. If the complaint being received is about the employee's immediate supervisor, the employee is authorized to report the complaint to any other supervisor.
- 3. A supervisor who is informed of a complaint should immediately complete a NOTIS entry or DOC-028. The supervisor should make certain that any documentation is attached.
  - 4. The Appointing Authority is responsible to make certain that reporting forms are correct and complete. Deficient reports will be returned to the Appointing Authority for corrections.

### 339.05 INVESTIGATIONS

- 1. The Appointing Authority is responsible for ensuring that allegations of employee misconduct are investigated. The Appointing Authority should request an investigation using the "refer to IG" function in NOTIS.
  - 2. Following receipt of an investigation request, the Inspector General or designee will review the NOTIS preliminary report/DOC-028, any attachments, and any other reports related to the allegations of employee misconduct to determine if an investigation is appropriate. If an investigation is initiated, the Inspector General or designee will identify generally appropriate allegations based upon the Class of Offense Guidelines outlined below and assign the appropriate investigative body.
    - A. Generally, those offenses identified as Class 1 and 2 will be assigned to the involved Appointing Authority for investigation. At the discretion of the Inspector General or designee, Class 3 offenses may be assigned to the involved Appointing Authority or to an investigator within the Inspector General's Office. Generally, Class 4 and 5 offenses will be assigned to Office of the Inspector General investigators.
    - B. Incidents of poor or less than standard performance that do not contain an element of misconduct will be assigned to the Warden/Division Head for appropriate action without case assignment.
    - C. When circumstances dictate that the investigation will involve the interview of civilians or investigation outside of the institution, the investigation will be conducted by the Office of the Inspector General.
  - 3. A preliminary inquiry will be conducted pursuant to the Office of the Inspector General – Guide for Investigators – Preliminary Investigations Section, noting that the original complaint and reports may suffice.
  - 4. Any employee who is the focus or subject of an investigation shall be afforded all rights and protections provided by law, and by Department regulation and directive. Current requirements are in the "Office of the Inspector General – Guide for Investigators."
  - 5. The Inspector General or designee shall review the matter to determine where the investigation will be assigned.
    - A. If the IG determines that a formal investigation is not necessary, the Inspector General will notify the Appointing Authority, who is then responsible to appoint an individual of the rank of Sergeant/Non-sworn supervisor or higher as an institutional investigator.
- (1) If an investigation assigned to an institution subsequently yields evidence of potential criminal misconduct by an employee or others, the Appointing Authority shall immediately notify the Inspector General.

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- (2) The Inspector General shall review the matter and determine whether the investigation should continue with the Appointing Authority or be returned to the Inspector General's authority.
- B. If a formal investigation is required, a case number and investigator will be assigned without delay.
- (1) A formal investigation will be conducted pursuant to the Office of the Inspector General – Guide for Investigators.
- (2) If it becomes necessary to conduct parallel administrative and criminal investigations regarding a complaint of employee misconduct, the Inspector General shall ensure that the investigations are bifurcated. Information developed during the administrative investigation growing out of the subject's interview shall not be shared in the criminal investigation.
- (3) If additional misconduct is discovered during the course of an investigation which is related to the original misconduct, the investigator shall amend the allegations and continue with investigation. If the discovered misconduct is not related to the current investigation, the investigator should generate a new NOTIS entry and submit it for Inspector General review and assignment.
- (4) The investigation will be completed within the due date assigned by the Office of the Inspector General and applicable statutes and regulations. The Inspector General's Office may grant extensions requested for reasonable cause.
- (5) Where an IG investigator has determined that a polygraph examination would appropriately supplement an investigation, the procedural safeguards provided in the "Office of the Inspector General – Guide for Investigators" will be applied.
- C. Upon completion of an employee misconduct investigation, the assigned investigator shall document investigative facts in a final case report according to the guidelines in the "Inspector General – Guide for Investigators."

### 339.06 PROHIBITIONS AND PENALTIES

1. The Chart of Corrective/Disciplinary measures ascribes an available range of Corrective/Disciplinary action for each Class of prohibited activity. This chart indicates the suggested level of discipline, from less serious to more serious, for the Class of Offense and for first, second and third offenses.
2. Penalties for prohibited activities should be assessed based upon criteria established in the Chart of Corrective/Disciplinary Sanctions.
3. Multiple Infractions - In cases involving more than one sustained violation, disciplinary action should begin with the most serious violation. Other related violations may then be considered as aggravating circumstances when determining the appropriate penalty from within the minimum and maximum recommended range, or each violation may be individually considered and the penalties cumulated.
4. Progressive Discipline - Grave acts of misconduct may warrant dismissal of an employee without previous corrective action or progressive discipline. However, less serious acts of misconduct may warrant the use of progressive discipline, i.e., lesser to greater discipline, to give the employee a chance to reform his or her conduct. The increasing level of concern expressed through progressive discipline may begin with corrective action or proceed to a written reprimand, suspension for up to 30 calendar days, demotion, or dismissal.
5. Appointing Authorities and employees must recognize that penalty schedules cannot accurately, fairly, or consistently address every situation; a comprehensive list of DOs and DON'Ts of employee conduct is not possible. Appointing Authorities must conduct an individual analysis of each employee for each incident and exercise their professional

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judgment and discretion in recommending a penalty. Training, education, actions, awards, and punishments are interrelated, not separate elements.

6. There is no requirement that charges similar in nature must result in identical penalties. Employees sometimes incorrectly equate fairness and consistency as synonyms; they are not.

A. Consistency within a disciplinary system means holding every employee equally accountable for unacceptable behavior. Unacceptable behavior for one is unacceptable behavior for all, regardless of rank, status, or tenure.

B. Fairness within a disciplinary system means understanding the numerous circumstances that could contribute to the unacceptable behavior. Disciplinary recommendations must consider these circumstances. Thus, two employees accused of the same misconduct could face different consequences.

7. Appointing Authorities and their reviewers should neither rely solely on previously imposed penalties nor quote them as an authority in penalty rationales. It must be remembered that this is a historical document of penalties. As such, it may not reflect an appropriate penalty for the misconduct. Indeed, an appropriate penalty may be higher or lower depending upon current issues and the impact of the particular misconduct on the Department and/or fellow employees.

8. Failure to report, failure to act, or failure to disclose is considered misconduct.

9. The Department has developed Class of Offense Guidelines which describe many prohibited employee actions and a Chart of Corrective/Disciplinary Sanctions which recommends penalties for inappropriate conduct.

10. Conflicting activities pursuant to NAC 284.738 include but are not limited to any activity prohibited by AR 332, Employee Reporting Responsibilities; AR 345, Unauthorized Relationships; AR 346, Nepotism; AR 347, Political Activities by Employees; and AR 355, Employee Secondary Employment.

**Chart of Corrective/Disciplinary Sanctions**

Class	First Offense		Second Offense		Third Offense	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	Verbal Counseling	Written Reprimand	Written Reprimand	Suspension	Suspension	Dismissal
2	Written Reprimand	Suspension	Suspension	Suspension Demotion	Suspension Demotion	Dismissal
3	Suspension	Suspension Demotion	Suspension Demotion	Dismissal	Dismissal	N/A
4	Suspension Demotion	Dismissal	Suspension Demotion	Dismissal	Dismissal	N/A
5	Dismissal	Dismissal				

STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL


DATE: December 08, 2016  
TO: Jo Gentry, Warden, Southern Desert Correctional Center  
FROM: Rod Moore Supervisory Criminal Investigator, Office of the Inspector General  
SUBJECT: REPORT OF PERSONNEL COMPLAINT INVESTIGATION  
IA-2016-145

**COMPLAINT:**

Departmental complaint alleges that Correctional officer NAVARRETE, JOSE, engaged in  
UNAUTHORIZED USE OF FORCE and FALSE AND MISLEADING STATEMENTS

**ACCUSED STAFF:**

Navarrete, Jose  
Senior Correctional Officer  
SDCC

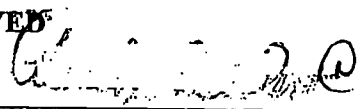
  
Investigator Rod Moore

12/9/16  
Date

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Date

APPROVED

  
Pamela Del Portillo  
Inspector General

DGC

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OF THE INSPECTOR GENERAL.

**NDOC 0126**

Exhibit A  
00854  
JA 1123

Subject:

**SUMMARY:**

On October 09, 2016 Correctional Officer Paul Valdez and another officer was involved in a "spontaneous use of force" with inmate Rickie Norelus 1104257. A review of video footage by the Southern Desert Correctional Center administration of the spontaneous use of force was deemed as being conducted outside the scope of the NDOC's policies relating to Use of Force. SDCC administration requested an investigation into the events that transpired on October 09, 2016.

**ALLEGATION I**

Departmental complaint alleges that Navarrete, Jose engaged in **UNAUTHORIZED USE OF FORCE** when on 10/09/2016 officer Valdez grabbed inmate Norelus, Rickie 1104257 around the neck and took the inmate to the ground without sufficient cause to do so and as the senior officer allowed this unauthorized use of Force without proper intervention .

**ALLEGATION II**

Departmental complaint alleges that Navarrete, Jose engaged in **FALSE AND MISLEADING STATEMENTS** when officer Navarrete knowingly completed and submitted a report documenting the events of the Use of Force that were not compatible with what was viewed in the video of the same Use of Force.

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**NDOC 0127**

008551

JA 1124

Subject:

### WITNESS LIST

WITNESS	DATE/TIME INTERVIEWED	AUDIO RECORDED TAPE NUMBER AND SIDE	PAGE NUMBER
Navarrete, Jose Sr. Correctional Officer SDCC	10/27/2016	Digitally recorded	4
Valdez, Paul Correctional Officer SDCC	10/27/2016	Digitally recorded	8

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**NDOC 0128**

00850

JA 1125



Subject:

## INVESTIGATION

### NAVARRETE, JOSE, SENIOR CORRECTIONAL OFFICER, SOUTHERN DESERT CORRECTIONAL CENTER

On October 27, 2016 I, Supervisory Criminal Investigator {SCI} Rod Moore conducted an in person interview with Senior Correctional Officer Jose Navarrete at the Casa Grande Transitional Housing administrative offices. Officer Navarrete was issued his Notice for interview on October 21, 2016. Officer Navarrete was given his Admonition of Rights which he read and signed as well as his admonition of confidentiality. He was represented by his attorney Will Sikes.

#### ALLEGATION I

#### ALLEGATION II

Officer Navarrete said he was working on October 09, 2016 at the Southern Desert Correctional Center in a position he describes as "lead Search and Escort." He said that position is comprised of maintaining movement of inmates and maintaining security throughout the facility and search in cells. In relation to culinary operations the search and escort officer responsibilities according to Navarrete is maintaining a visual on inmates inside the culinary to ensure there are no fights or they are taking things out they are not supposed to and being the back up for the culinary officers inside as well as conducting routine pat searches on inmates coming in and out of the culinary.

Navarrete stated a scenario where an inmate would be detained and placed upon the wall and or searched could come from anything. He said they are random or if an officer sees something inside the culinary that the inmate was doing and the officer would wait until he left the culinary to stop and search him.

Navarrete stated he has been assigned to that position for approximately three months and was in a search and escort position on graveyard for about a year and a half as well. Navarrete agreed he has a large amount of experience in the search and escort position.

Navarrete stated he has worked with officer Valdez for approximately a year. He said he and Valdez do things outside of work as well such as having lunch, but nothing too involved.

Regarding the use of force incident Navarrete said, "If I remember correctly, the inmate was randomly placed on the wall with three other inmates and pat searched." In regards to inmate Norelus, he was being "non-compliant and verbally abusive" and wasn't listening to his orders and this is why he was kept on the wall longer than the other inmates.

Navarrete agreed he has the ability to restrain an inmate whenever he sees that it would necessary based on his experience as a search and escort officer. He said the reason Norelus wasn't placed in hand cuffs when he was being non-compliant and verbally abusive in the beginning of the contact was "because he didn't want to put any inmate or C/O in danger, so if the other inmates

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NDOC 0129

008573

JA 1126

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Subject:

are being compliant, I'll get them out of the way, and if the inmate is still irritated or non-compliant, why am I going to approach him?"

In regards to the time the inmate was placed on the wall until the use of force happened, Navarrete said the inmate was given multiple orders to stay on the wall and not to move. Navarrete continued saying "he told the inmate that any movement that was not directed by him or Valdez would be taken as a threat and multiple times he came off the wall, moved his head, moved his body, again, multiple times."

"When the use of force happened, I was actually leaning on the wall, Officer Valdez walked up to the inmate and placed his left arm on the inmate and went to what I saw, restrain the inmate and when Valdez did that, the inmate was continuously moving and given another directive not to move, and the inmates hands were coming off the wall. So once that happened, officer Valdez and the inmate came off the wall, inmate Norelus was still resisting and they fell to the ground. That's when you see me come off the wall and get control of the inmates upper body and told officer Valdez to restrain the inmate and then got on the radio and notified the Sergeant that we just had a use of force."

Medical was called nearly at the same time o they could assess the inmate for injuries and move him. The response was videotaped and they took him to the infirmary and that was it.

Navarrete's attorney asked if he could clarify something that Navarrete had stated. Mr. Sikes asked if when describing the inmate coming off the wall, was his entire body coming off the wall or just his hands and head?

Navarrete said he observed it to be mostly the inmate's hands and his head that was coming off the wall. Navarrete agreed the inmates turn was mainly form the shoulder area and not a full body turn.

According to Navarrete he estimates from the time Valdez made contact to the time they went to the ground it was "less than a minute." I explained again, "from the time Valdez touched inmate Norelus, to the time they went to the ground." Navarrete again stated, "yeah, it was a minute or so."

Navarrete stated inmate Norelus was placed and left on the wall for approximately 10-15 minutes. He said he was left there that long because Norelus wasn't being compliant and wasn't listening to orders and was agitated. Navarrete said during that time, he does recall counseling Norelus on the rules and regulations and trying to defuse the situation as well as Valdez.

Navarrete stated he has seen the video of the use of force and watched inside the culinary with officer Valdez. He said he has seen the video approximately ten times and came away with the same conclusion every time. Navarrete said he does have the video on his state e-mail and it was down loaded from the culinary with authorization from the shift Sgt.

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**NDOC 0130**

00858A4  
JA 1127

Page 6 of 14

Subject:

Navarrete said he does "somewhat" recall what was written in his report. Navarrete was allowed to review his report before continuing with questioning. He read the report out loud. I asked Navarrete if that was clear and accurate depiction of what occurred. He said "yes."

Navarrete was asked if knew what inmate Norelus' problem was that lead to all this. He said I don't know, maybe he was upset for being put up on the wall. Navarrete continued saying, maybe it was because Norelus was caught with extra food in his sack lunch that he was trying to get out of the culinary.

Navarrete said he couldn't recall what exactly Norelus was saying that was verbally abusive but there was profanity.

Navarrete said Valdez did call him when Valdez was writing his report but Navarrete did not speak to Valdez when he was writing his.

Navarrete was shown the video and asked to articulate what he and Valdez were doing and why.

While observing the video, Navarrete identifies himself and officer Valdez.

Navarrete was shown when the inmate looks at his left arm and states "it was slight" but he did come off the wall.

Navarrete agrees the inmate is in an agitated state and being verbally abusive. I pointed out Navarrete's posture of leaning up against the wall next to the inmate from about two to three feet to which Navarrete claims was not tactically wrong.

I asked him if the situation at the moment was under control or fluid and could in any direction. Navarrete responded by saying when he talks to inmates and he's in a relaxed state it give the inmate the notion that nothing is going to go wrong, were just talking.

Navarrete sated the moment Valdez starts to approach the inmate was due to the inmate being non-compliant. He said the inmate continued to "move around." Navarrette stated he could not speak for Valdez as to why he approached the inmate at that very moment.

Navarrete stated in this situation he is Valdez's superior. I asked Navarrete if he was in charge of Valdez at that moment or was he just allowing Valdez to do his own thing? He said "somewhat, but yeah, he is a senior officer, but he's technically not a supervisor."

As we continue our review of the video, we get to the point in the video where Valdez touches inmate Norelus's back and reaches around his neck. I then point out that inmate Norelus's hand can still be seen as still being on the wall and has not moved his feet. The video was played again.

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**NDOC 0131**

008585  
JA 1128

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Subject:

I pointed out that there was nothing Navarrete could physically do from his standpoint due to Valdez's action being quick. I narrated that "we had a push, then around the neck, and then down they go."

When I pointed out that it was reported that Valdez was going for his restraints and in the video, "there was none of that." Navarrete said, everyone has a different way, and for him, he doesn't get out his restraints, he gains control first, and then gets out his restraints.

After covering the video and the discrepancies between the reporting versus what physically occurred, I asked Navarrete one more time if he still felt his report accurately reflected what occurred and why. Navarrete stated, "One hundred percent."

In conclusion I asked Navarrete if he was a use of force instructor to which he said, "no." I asked him if he successfully completed his yearly training in IST to include defensive tactics. He stated he has.

I then asked Navarrete if he had engaged in any defensive tactics being taught by the department that trains to initiate the force by grabbing an inmate around the neck.

Navarrete said, "no."

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**NDOC 0132**

008606  
JA 1129

Subject:

## INVESTIGATION

### VALDEZ, PAUL, CORRECTIONAL OFFICER, SOUTHERN DESERT CORRECTIONAL CENTER, INDIAN SPRINGS, NEVADA.

On October 27, 2016 I Supervisory Criminal Investigator Rod Moore conducted an in person interview with Correctional Officer Paul Valdez. Valdez was served his Notice for Interview on October 21, 2016. Mr. Valdez was given his Admonition of Rights {administrative} which he read and signed. He was given his admonition of confidentiality which he read and signed. Mr. Valdez was represented by Russ Goodman of the Goodman Law Firm.

Officer Valdez stated he was working as a "Search and Escort" officer at SDCC on October 09, 2016 and has been assigned to that position since July of 2016. Valdez confirmed he was working with Senior Correctional Officer Navarrete on October 09, 2016.

Valdez stated the breakfast meal starts at approximately 5:00am and ends at approximately 7:30 am depending on what is being served at breakfast.

Valdez stated that normal duties of a Search and Escort officer in relation to the culinary would make sure there are no fights or line cutting of the inmates and that inmates are actually eating and not just hanging around the culinary. He stated another duty is to ensure the inmates aren't stealing more food out of the culinary that not part of the "sack lunch" that's given to them for their afternoon meal and generally making sure the flow of inmates in and out of the culinary goes well.

Valdez stated that senior officer Navarrete would be the officer in charge of the four man Search and Escort officers.

Valdez stated he does recall a Use of force incident that occurred that morning on October 09, 2016. He said inmate Norelus's unit was leaving the culinary and they were picking random inmates for "pat downs." He said Norelus was upset he was chosen and was placed on the wall. He said extra food for discovered in his sack lunch that was very easy to see. Once on the wall Norelus was got more upset and started using foul language and showing he was going to be "non-compliant."

Valdez stated he Senior officer Navarrete told Norelus to keep his hands on the wall and he didn't listen and kept taking his hands off the wall saying, "what are you gonna do?" and being aggressive.

Valdez stated, "for the spontaneous, I went in, and it ended up being a spontaneous use of force after I put my hands on him," Norelus turned and said "what are you going to do." Norelus then made "an aggressive move" and at that point I grabbed him and I tried to put him down on the ground and he resisted and we ended up being face to face." Valdez continued saying, "he was resisting and they fell to the floor" where Valdez was able to gain control of Norelus.

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NDOC 0133

0086A7  
JA 1130

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Subject:

Valdez said Navareet was to his left side and when Navarrete reacted it was already over because it happened so fast. Valdez said there were only him and Navarrete dealing with inmate Norelus this entire time.

Valdez said there was about four or five other inmates there pulled out of the line for "pat downs." He said none of those inmates gave them any problems.

Valdez was asked, on a scale of 1 to 10 how bad was this inmate" Valdez stated, "probably a 10." Valdez agreed, the inmate was enough of a problem to where he had to place hands on him to gain control.

Valdez stated he did submit a report and at no time did he and Navarrete talk about their reports. Valdez was asked if he recalled what he wrote in his report. He said, "for the most part, yeah."

Valdez was given a copy of his report to review before anymore questioning.

After reviewing his report, Valdez said this was an accurate depiction of what happened that morning on October 09, 2016. Valdez said he had watched the video once or twice within the culinary. He said he does not have a copy of the video.

Valdez stated he thinks the events that are the video and what was written in his report is an accurate depiction of both.

Valdez was informed that we were going to watch the video that shows the use of force so he can articulate his actions.

Valdez identifies officer Wachter, David as being in the video but is watching inmate going into the culinary and his back facing him and Navarrete the entire time during the use of force.

Valdez articulates the he's standing on the outside of the culinary exit door. Valdez identifies, senior officer Navarrete as being close to him but in a location behind Valdez.

Valdez identifies himself and inmate Norelus.

Valdez was asked why inmate Norelus was on the wall for approximately fifteen minutes. He said we were trying to give him directives and he wouldn't listen and they were going to send him into unit "hot" and be a problem for that unit officer.

At specific time in the video just before the use of force, Norelus has both of his hands on the wall and appears to look at his watch on his left hand. Valdez stated he didn't think Norelus was looking at his watch because every time he was told to keep his hands on the wall Norelus would say, "What are you going to do?" Valdez was asked why Norelus kept challenging him. He said because Norelus was upset.

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**NDOC 0134**

00862  
JA 1131

Subject:

I pointed out that Valdez stated earlier that Norelus was 10 out of 10 in an agitated state, and Navarrete was standing with his hands in his pockets leaning on one shoulder against the wall just feet to the left of inmate Norelus and didn't seem to be worried about it. Valdez said he was more focused on Norelus than watching senior officer Navarrete.

I asked Valdez why he started walking towards Norelus. He stated because Norelus had already been warned many times and was not listening to our directives so at that point I go into, restrain him so we can defuse his actions of being a disruptive inmate. Valdez stated he told Norelus that he was approaching him and told Norelus that "he was going cuff him up and any sign of movement I'm going to take that as a sign of aggression."

Valdez stated the first move he made was leaning Norelus against the wall with his left arm so he kept it "wall body, body so Norelus has little movement as possible." Valdez agrees that Norelus then turn on him and that's when everything went bad when I was establishing Valdez's verbal accounts of what happened prior to continuing with the video.

I stated to Valdez that if I was someone who knew nothing about corrections, or control and restraint techniques I would view this video as showing him do "a push in the back, arm around the inmates throat and then dragging him back." I then explained that in his report, he wrote he attempted to hand cuff the inmate. I then stated, in the video there was no attempt of you going for your hand cuffs, nor were your hand cuffs ready. There was a push, around the neck, and then back.

I asked Valdez if he would agree to my assessment of the video. Valdez stated, "If you see the video, I push, then he leans and at that time I'm not going to pull my restraints out and allow them to become a weapon." I agreed with Valdez on that point.

Valdez pointed to the video and say if you look, he's coming off the wall after being told not to. I asked Him, "Which way the inmate is facing?" Valdez said he comes off to the left. I stated, "you pulled to his left."

Continuing with the video, I showed Valdez that inmate Norelus fingers was the last thing to leave the wall and Valdez's force pulls Norelus to the left because that's the only place he can go.

We continued to watch the video literally frame by frame and there was varying opinions on whether Norelus's hands ever came off the wall or was being non-compliant.

Valdez while watching the video reiterates, "Any kind of movement is taken as a sign of aggression." I asked Valdez, "so after having Norelus on the wall for 15 minutes, and you see him lift his left hand off the wall, {while Valdez is several yards behind Norelus} your use of force continuum was to then cuff him up?" Valdez thought for a second and stated, "yes."

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**NDOC 0135**

00863  
JA 1132

Page 11 of 14

Subject:

I again showed Valdez the frames of the video of him pushing Norelus against the wall, then placing his arm around Norelus's neck. I pointed out that both of Norelus's hands are still on the wall. Both Navarrete and his attorney did not completely agree with my observations.

I asked Valdez if he successfully been through all his yearly refresher training including control and restraints and his other training in the academy. He said he has. I then asked Valdez in any of that training with the Department of Corrections, had he ever been trained to grab an inmate around the neck as part of his use of force training for situations such as this one.

Valdez stated, "that situation was more of a reaction for my safety. I reacted and did what I needed to do to put him down."

I stated to Valdez, Okay, I'm going to ask you again, your report versus what we have discussed while watching the video; you're 100% accurate that your report is a true and accurate depiction of what happened."

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**NDOC 0136**

0080410

JA 1133



Subject:

### INVESTIGATOR NOTES

1. During the review of the video, there are several other inmates who were placed upon the wall. Only inmate Norelus was left on the wall for approximately 11-14 minutes. According to testimony by officer Navarrete, Norelus was ordered to remain with his hands on the wall and not to move for this entire time.
2. During the interview process, it was stated by Navarrete that inmate Norelus was "coming off the wall and disregarding orders" repeatedly. However, the video shows inmate Norelus does not break contact or move aggressively towards any officer.
3. Once inmate Norelus is grabbed around the neck, the video still shows he has contact with both hands on the wall.
4. Inmate Norelus does manipulate his left arm in a fashion that appears he is looking at his watch. Both officers are away from him at that time and do not react to that motion. This motion appears to be the most movement Norelus does during the contact.
5. Only in a lifesaving scenario would it be appropriate to initiate a Use of Force upon an inmate in the neck or throat area and this type of hands on maneuver is not taught by any defensive tactics trainer within NDOC specific to this scenario.
6. At 1:47 into Video inmate Norelus is patted down. Officer Navarrete then assist's Norelus in placing Norelus's hands higher onto the wall.
7. During the time Norelus is on the wall {which he is the only one} Valdez and Navarrete walk around him, create distance, turn their back on him but seem to maintain a dialog.
8. There does not seem to be any apparent reason to have this inmate left on the wall for this amount of time based on the inmate's actions seen on the video.
9. Navarrete and Valdez wonder around him for approximately 9 minutes as many other inmates walk past and see Norelus left up against the wall with his hands still up.
10. At 10:40 into the video Navarrete leans up against the wall with his feet crossed. This position is not indicative to an officer attempting to maintain control of a "con-compliant and verbally abusive" inmate.
11. At 10:41 into video, inmate Norelus appears to be looking at his watch. He has been on the wall now approximately 9 minutes with his arms up.

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**NDOC 0137**

008051  
JA 1134

Subject:

**INVESTIGATOR NOTES CONT.**

12. At 10:48 into video, officer Valdez approaches inmate Norelus from behind as Norelus seem to be talking to Navarrete who is still against the wall. No sudden movements or turns are seen by inmate Norelus to this point.
13. Valdez places his body against Norelus's body placing Norelus's chest against the wall. {Norelus's hands are still on the wall.}
14. Valdez's first hand on move is to reach around Norelus's neck and throat area and pull Norelus back. The last thing to leave the wall is Norelus's hands.
15. Valdez pulls Norelus back and Norelus is turned to the left where him and Valdez are now face to face when they go to the ground.
16. Both officers testified and maintain they were attempting to restrain an non-compliant and verbally abusive inmate. At no time did either officer attempt to restrain inmate Norelus until he was on the ground on the sidewalk. There did not seem to be any orders for Norelus to submit to restraints.
17. No other staff was interviewed in this case as nobody was in close proximity to the Use of Force when it occurred or just prior.

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**NDOC 0138**

008612  
JA 1135

Page 14 of 14  
Subject:

**ADDENDA**

1. Available upon request, video of use of force on October 09, 2016 at SDCC by Officer Navarrete, Jose.
2. IN-2016-0313 Investigative report

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**NDOC 0139**

00867  
JA 1136 113

## Addendum #1

Available upon request, video of use of force on  
October 09, 2016 at SDCC by Officer

Navarrete, Jose

STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL

CASE NO: IN-2016-313

INVESTIGATION REPORT

Investigation Type: Oppression Under the Color of Law

Victim/Involved Person Inmate Rickie Norelus, 1104257

Address Southern Desert Correctional Center, Indian Springs Nevada

Location of Occurrence: Southern Desert Correctional Center, Indian Springs Nevada

Date & Time of Occurrence: October 9, 2016 6:45 a.m. Date Assigned: October 12, 2016

Assigned Investigator(s): David Molnar  
James Jones

Case Status/Disposition: Referred to Warden ( ) Referred to Attorney General (XX)  
Referred to Outside Agency ( ) Referred to District Attorney ( )

Closed ( )

By Arrest ( )  
(Criminal Charges Filed)

Other ( )  
(Criminal Charges Declined or Insufficient Evidence to Arrest/Charge)

Inmate Discipline ( )  
(Referred to Institution for Appropriate Action on Inmate)

No Further Action/Resolved ( )  
(Non-Criminal Matter Resolved)

Unfounded ( )  
(Investigation Disclosed Incident did not occur)

Inactive ( )  
(Per Director/IG or Referred to another agency for investigation)

Investigation Continues ( )

Further Investigation ( )

Pending Prosecution Decision ( )  
(By Appropriate Prosecutor's Office)

Investigator  
Office of the Inspector General

APPROVED

Supervisor

Famela Del Porto  
Inspector General

Report Date

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ND0C 0141

00895  
JA 1138

ADDENDUM 2

#1 of 7

**Additional Victims/Involved Persons:**

David Wachter  
Correctional Officer  
Southern Desert Correctional Center  
(702) 879-3800

**Suspects:**

Paul Valdez  
Correctional Officer  
Southern Desert Correctional Center  
(702) 879-3800

Jose Navarrete  
Senior Correctional Officer  
Southern Desert Correctional Center  
(702) 879-3800

**Witness List:**

Minor Adams  
Associate Warden  
Southern Desert Correctional Center  
(702) 879-3800

David Molnar  
Supervisory Criminal Investigator  
Casa Grande Transitional Housing  
(702) 486-9924

James Jones  
Criminal Investigator  
Casa Grande Transitional Housing  
(702) 486-9913

Inmate Michael White  
110991  
Southern Desert Correctional Center

Inmate Lawrence Williams  
15136  
Southern Desert Correctional Center

**ADDENDUM 2**

*#2 of 7*

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**NDOC 0142**

008706

JA 1139

Case No.IN-2014-156  
Page 3 of 7

Inmate Ralph Jackson  
64883  
Southern Desert Correctional Center

ADDENDUM 2

#3 of 7

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NDOC 0143

008711

JA 1140

**Source Of Activity:**

On October 9, 2016, a spontaneous use of force occurred at the Southern Desert Correctional Center. Staff reported that during a routine pat search inmate Rickie Norelus, 1104257, turned aggressively towards staff prompting the spontaneous use of force. The incident prompted Correctional Officer Paul Valdez to administratively charge Norelus by submitting the following report;

*On October 9, 2016 I CO Valdez assigned to Search and Escort from 0500-1300. At approximately 0645 during morning breakfast inmate Norelus, R 1104257 was placed on the wall. While inmate Norelus was on the wall he was told multiple times by me and SCO Navarrete to keep his hands on the wall. Inmate Norelus kept taking his hands off the wall saying "what are you going to do"? after several commands I attempted to place him restraints. When attempting to place him in restraints, I told Inmate Norelus don't move your hands. Inmate Norelus again stated "what are you going to do"? and moved his hands off the wall and turned in an aggressive manner which resulted in a spontaneous use of force. Inmate was placed in restraints medical was called and inmate was taken to the infirmary.*

The incident also caused Senior Correctional Officer Navarrete to submit the following witness statement;

*On October 9, 2016 I, Senior Correctional Officer Navarrete was assigned to Search and Escort at Southern Desert Correctional Center. At approximately 06:45 hours inmate Norelus #1104257 came off the Culinary wall while C/O Valdez was attempting to restrain him resulting in a spontaneous use of force. When inmate Norelus came off the wall he was resisting and both he and C/O Valdez went to the ground. I then assisted in holding the inmates upper body down so that C/O Valdez could restrain him. I notified supervisors and called medical so that they could respond to the scene. Medical responded and inmate Norelus was escorted to the infirmary to be further evaluated.*

Minor Adams, Associate Warden, obtained video footage of the incident recovered from a stationary camera mounted to the Culinary Building. Adams found the actions of the officers to be contrary to accepted practices and believing that the officers engaged in excessive use of force, requested a criminal investigation be initiated by the Office of the Inspector General.

**Investigation:**

On or about October 12, 2016 Supervisory Criminal Investigator David Molnar was assigned to investigate allegations of excessive use of force. Molnar reviewed the video footage provided by Adams. The video depicts correctional officers conducting random pat down searches of inmates departing the culinary after morning meal on October 9, 2016.

Random pat searches of inmates exiting dining facilities is a common practice utilized at virtually all correctional organizations. The practice is utilized to reduce the movement of dangerous contraband and deters inmates from transporting unauthorized food items into the

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ADDENDUM 2  
NDOC 0144  
# 49/ 00872 A18  
JA 1141



housing units which may lead to serious health and safety issues. The searches are usually conducted in an expedient manner designed to target obvious hiding areas such as pockets, waistbands and socks. The searches also serve as a deterrent for inmates to attempt to traffic contraband.

Molnar noticed that one inmate in particular was directed to stand against the wall for an extended period of time. The inmate, later identified as Norelus, appeared to have the undivided attention of two correctional officers, later identified as Correctional Officers Valdez and Navarrete. After approximately eleven minutes, Officer Valdez approached Norelus from the rear and placed his right arm around the inmate's neck, then pulled him violently to the ground. Both Valdez and Navarrete subsequently placed Norelus in restraints and called for assistance. At no point did the inmate appear to be resisting the officers, nor did it appear that at any time he posed a physical threat as depicted in the officer's reports.

On October 13, 2016, Molnar interviewed Norelus at the Southern Desert Correctional Center. Norelus stated that Officers Valdez and Navarrete had been singling him out to be pat searched for the past two weeks. He stated the two routinely call him names which he believes was an attempt to entice him into a physical confrontation. Norelus stated that on October 9, 2016, he was once again singled out to be searched. He stated that Valdez made numerous comments, calling him "Fag" and "Bitch." Norelus stated that Valdez also stated "I can't believe no one's beat your ass yet." Norelus admitted that he also replied to Valdez' comments by agreeing with the comments made by Valdez by saying things such as "Ya, I'm a fag" and "Ya, I'm a bitch." Norelus surmised that by agreeing with Valdez' comments and not addressing the officer in a threatening manner or being physically assaultive, served to make Valdez angry. Norelus stated that Valdez subsequently attacked him from behind and threw him to the ground where Navarrete assisted in placing him in restraints. Norelus reiterated that he did nothing to provoke the use of force and did not resist the officers after being thrown to the ground. Norelus stated he did not suffer any physical injury, but that he suffers from mental disorders which he believes have been compounded by the incident.

Molnar then attempted to identify inmates portrayed in the video as witnesses to the incident. Molnar located inmate Michael White, 110991. White stated that Navarrete and Valdez were always "going at it" with Norelus. White stated that on October 9, 2016, he heard the officers calling Norelus "gay words." White also stated that he once tried to tell Navarrete and Valdez that Norelus has "a mental problem" but the officers continued to harass Norelus.

Inmate Lawrence Williams, 15136, stated that Norelus is known to have "mental issues." He stated that on October 9, 2016, he observed that Navarrete and Valdez had Norelus against the wall for an extended period of time and overheard an officer say to Norelus, "I surprised no one has beat your ass yet."

Inmate Ralph Jackson, 64883, stated that on October 9, 2016, he overheard an officer tell Norelus, "I'm surprised no one has whooped your ass yet because you have a smart-assed mouth." Jackson also had a handwritten statement that he intended to send to the prison administration. The letter alleges that staff are targeting African American inmates and forcing

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ADDED 2  
NDOC 0145  
# 5 of 7 00873119  
JA 1142

them to stand against the wall for extended periods of time. Jackson requested administrative staff conduct a review of the practices. Jackson provided Molnar with the handwritten letter.

During Molnar's review of the incident, a third officer, David Wachter, is seen coming out of the Culinary Building, having a brief encounter with Navarrete and Valdez, then moving out of the area, presumably to monitor inmate movement into the Culinary Building.

On October 18, 2016, Molnar and Criminal Investigator, James Jones, conducted a recorded interview with Wachter at the Southern Desert Correctional Center. Wachter stated he came out of the Culinary Building and saw Officers Navarrete and Valdez with an inmate who had been placed against the wall for a pat search. Wachter stated he then went to supervise another unit entering the Culinary Building. Wachter stated he heard a commotion and turned to see Valdez involved in a use of force. Wachter stated that he had viewed the video footage prior to being interviewed and acknowledged that the inmate had been standing at the wall for an extended period of time. Wachter stated he could not hear the conversation between the inmate and the officers. Wachter stated that based on his review of the video footage, the use of force was not appropriate. Wachter also stated that he had previously counseled Valdez regarding Valdez' interactions with inmates. Wachter stated he advised Valdez that "Our job is to quell situations, not get them riled up." Wachter stated he was able to view the video footage in the culinary office.

Navarrete and Valdez were subsequently placed on Administrative Leave pending investigation.

On October 19, 2016, Molnar and Jones attempted to interview Navarrete at the Casa Grande Transitional Housing. Navarrete invoked his Miranda rights.

On October 19, 2016, Molnar and Jones attempted to interview Valdez at the Casa Grande Transitional Housing. Valdez invoked his Miranda rights.

**Arrest:**

N/A

**Booking:**

N/A

**Findings:**

The October 9, 2016 video footage involving Navarrete, Valdez and inmate Norelus clearly depict a well-orchestrated and apparent premeditated, unnecessary use of force against Norelus. The video depicts Norelus being directed to stand with his hands against the wall for an inordinate amount of time. The video does not depict Valdez attempting to place Norelus in restraints, nor does it depict Norelus acting in a threatening manner. Moreover, the officer's subsequent written reports do not remotely coincide with the actual events that transpired. It is

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ADDITIONAL 2  
NDOC 0146

# 6 of 7 00874 A20

JA 1143

apparent that Navarrete and Valdez authored official reports in an attempt to shield themselves from their criminal behavior.

Based on the aforementioned facts, it is recommended that Officer Valdez be charged with Oppression Under the Color of Office, in violation of NRS 197.200, Battery, in violation of NRS200.481 and False Report by Public Officer, in violation of NRS 197.130.

It is recommended that Navarrete be charged with Oppression Under the Color of Office, in violation of NRS 197.200 and False Report by Public Officer, in violation of NRS 197.130.

**Evidence:**

October 9, 2016 video footage of the incident

October 9, 2016 video footage of staff response to incident

Recorded interview of Officer Wachter

Recorded interview of Navarrete

Recorded interview of Valdez

Letter authored by inmate Ralph Jackson, 64883

SDCC Incident Information File including;

Photos taken of Norelus

Medical/Injury Report

Booking Report, Norelus

Notice of Classification/Notice of Charges

SDCC Operational Procedures

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ND0C 0147

# 7 of 7 00875 A21

JA 1144

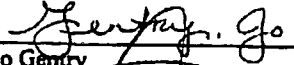
STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
EMPLOYEE MISCONDUCT ADJUDICATION REPORT

**DATE:** December 12, 2016  
**TO:** Quentin Byrne, Deputy Director  
**VIA:** Office of the Inspector General  
**FROM:** Jo E. Gentry, Warden  
**SUBJECT:** Adjudication Report – IA-2016-0145-1

**Complaint by:**

The complaint investigation IA-2016-0145-1 resulted in two allegations of misconduct against one Department employee:

Jose Navarrete, #41181  
Senior Correctional Officer  
Southern Desert Correctional Center

  
\_\_\_\_\_  
Jo Gentry

December 12, 2016  
Date

  
\_\_\_\_\_  
Reviewed By

12/13/16  
Date

☒ Agree ☐ Disagree

**NDOC 0148**

Exhibit B  
JA 1145

The allegations are listed below with recommendations for classification, corrective/disciplinary action, and supporting rationales.

### **ALLEGATION 1**

It is alleged that Navarrete, Jose engaged in **UNAUTHORIZED USE OF FORCE**, when on October 10, 2016 officer Valdez grabbed inmate Norelus, Rickie 1104257 around the neck and took the inmate to the ground without sufficient cause to do so and as the Senior Correctional Officer, Navarrete allowed this unauthorized Use of Force without proper intervention.

### **CLASSIFICATION**

It is recommended that this allegation be classified as Sustained.  
AR 339.07.17.A. – CLASS 4-5

### **RATIONALE**

Based upon written documentation there is sufficient evidence to sustain this allegation. Senior Correctional Officer Navarrete was the assigned Lead Search and Escort Officer was present during the Use of Force incident that had taken place on October 10, 2016 and was the immediate supervisor of Correctional Officer Valdez on this date. While supervising the evening dinner meal, Senior Officer Navarrete and Officer Valdez ordered Inmate Norelus to place his hands on the outside wall of the culinary dining area and ordered the inmate not to move. Senior Officer Navarrete and Officer Valdez mandated this inmate to stay in this position for approximately 15 – 16 minutes. Video recording substantiates that Senior Officer Navarrete and Officer Valdez were present during this entire time. Video recordings show that Officer Navarrete is leaning against the wall with his feet crossed only a few feet away from the inmate. Video recording depicts Officer Valdez rushing to the inmate, placing hand/arm around the inmate's neck/throat area, and pulling the inmate's back ultimately both falling to the ground. There is no evidence of any serious threat to the safety of staff, public, inmates, and/or prison security within the recording. There is no evidence of the inmate displaying any physical threats towards the staff members. In fact, the inmate's hands were still on the wall when Officer Valdez pulled him from the wall. At no time during the video recording did it show Senior Correctional Officer Navarrete intervening during this incident.

### **ALLEGATION 2**

It is alleged that Navarrete, Jose engaged in **FALSE AND MISLEADING STATEMENTS**, when officer Navarrete knowingly completed and submitted a report documenting the events of the Use of Force that were not compatible with what was viewed in the video of the same Use of Force.

### **CLASSIFICATION**

It is recommended that this allegation be classified as Sustained.  
AR 339.07.9.A. – CLASS 5

**RATIONALE**

Based upon written documentation there is sufficient evidence to sustain this allegation. Video Recording of this incident does not substantiate the written report entered by Senior Correctional Officer Navarrete. Officer Navarrete indicates that he witnessed Inmate Norelus coming “off the wall while C/O Valdez was attempting to restrain him resulting in a spontaneous use of force.” And when “Inmate Norelus came off the wall he was resisting.” Video recording of the incident indicates that Inmate Norelus did not move off the wall, in fact both his hands were still on the wall when Officer Valdez pulled him from the wall. Furthermore, the video recording did not show Officer Valdez attempting to restrain the inmate when he approached the inmate.

**CORRECTIVE/DISCIPLINARY ACTION RECOMMENDATION**

It is recommended that Jose Navarrete receive a Specificity of Charges – consisting of dismissal from state service resulting from sustained Class 5 allegations.

**DEPUTY DIRECTOR CONCURRENCE**

Quentin Byrne has reviewed this adjudication and agrees with the recommendations contained.

**EMPLOYEE NOTIFICATION**

On December 13, 2016 Senior Correctional Officer Jose Navarrete met with Warden Gentry and notified him concerning the outcome of the investigation. Senior Correctional Officer Navarrete was provided a copy of the “Result of Adjudication Report.”

Northern Administration  
5500 Snyder Ave.  
Carson City, NV 89701  
(775) 887-3285

Southern Administration  
3955 W. Russell Rd.  
Las Vegas, NV 89118  
(702) 486-9938



**State of Nevada  
Department of Corrections**

Brian Sandoval  
Governor

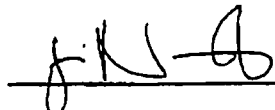
James Dzurenda  
Director

To: Navarrete, Jose  
From: Jo E. Gentry, SDCC  
Date: 12/13/16  
Subject: RESULT OF ADJUDICATION  
IA-2016-0145-1

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The adjudication of the above referenced Personnel Misconduct Complaint investigation has been completed. The misconduct allegation was classified as Sustained. The matter is being referred for a Specificity of Charges.

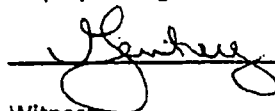
This recommendation is subject to final review and concurrence by the Department Human Resources' Office and/or Attorney General's Office.

  
\_\_\_\_\_

Employee's Signature

12.13.16  
\_\_\_\_\_

Date

  
\_\_\_\_\_

Witness

12-13-16  
\_\_\_\_\_

Date

**NDOC 0151**

00879 <sup>13</sup>

JA 1148

**NAC 284.646 Dismissals.** (NRS 284.065, 284.155, 284.383, 284.385, 284.390)

1. An appointing authority may dismiss an employee for any cause set forth in NAC 284.650 if:

(a) The agency with which the employee is employed has adopted any rules or policies which authorize the dismissal of an employee for such a cause; or

(b) The seriousness of the offense or condition warrants such dismissal.

2. An appointing authority may immediately dismiss an employee for the following causes, unless the conduct is authorized pursuant to a rule or policy adopted by the agency with which the employee is employed:

(a) Intentionally viewing or distributing pornographic material at the premises of the workplace, including, without limitation, intentionally viewing or distributing pornographic material on any computer owned by the State, unless such viewing or distributing is a requirement of the employee's position.

(b) Unauthorized release or use of confidential information.

(c) Participation in sexual conduct on the premises of the workplace, including, without limitation, participation in sexual conduct in a vehicle that is owned by the State.

(d) Absence without approved leave for 3 consecutive days during which the employee is scheduled to work.

(e) The suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law.

(f) Threatening another person with a deadly weapon during any time in which the employee is:

(1) On the premises of the workplace; or

(2) Conducting state business or otherwise performing any duties of employment.

(g) Stealing or misappropriating any property that is owned by the State or located on state property.

3. The rights and procedures set forth in NAC 284.655 to 284.6563, inclusive, apply to any dismissal made pursuant to this section.

4. As used in this section:

(a) "Material" has the meaning ascribed to it in NRS 201.2581.

(b) "Nudity" has the meaning ascribed to it in NRS 201.261.

(c) "Pornographic material" means material that, all or in part, contains any description or representation of nudity, sexual conduct, sexual excitement or sado-masochistic abuse which predominantly appeals to the prurient, shameful or morbid interest of adults and is without serious literary, artistic, political or scientific value.

(d) "Sado-masochistic abuse" has the meaning ascribed to it in NRS 201.262.

(e) "Sexual excitement" has the meaning ascribed to it in NRS 201.264.

[Personnel Div., Rule XII § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R147-06, 12-7-2006; R063-09, 11-25-2009; R027-11, 12-30-2011)



**NAC 284.650 Causes for disciplinary action.** (NRS 284.065, 284.155, 284.383) Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the Commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.
21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.
23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.

[Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006)

**NRS 284.383 Use of disciplinary measures; employee entitled to receive copy of findings or recommendations; classified employee entitled to receive copy of policy explaining information relating to disciplinary action.**

1. The Commission shall adopt by regulation a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are applied at first, after which more severe measures are applied only if less severe measures have failed to correct the employee's deficiencies.

2. The system adopted pursuant to subsection 1 must provide that a state employee is entitled to receive a copy of any findings or recommendations made by an appointing authority or the representative of the appointing authority, if any, regarding proposed disciplinary action.

3. An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.

(Added to NRS by 1979, 1353; A 1995, 233; 2011, 1495)

**NRS 284.385 Dismissals, demotions and suspensions.**

1. An appointing authority may:
  - (a) Dismiss or demote any permanent classified employee when the appointing authority considers that the good of the public service will be served thereby.
  - (b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.
2. Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline. After such consultation, the appointing authority may take such lawful action regarding the proposed discipline as it deems necessary under the circumstances.
3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The notice may be delivered personally to the employee or mailed to the employee at the employee's last known address by registered or certified mail, return receipt requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.
4. No employee in the classified service may be dismissed for religious or racial reasons.

[49:351:1953]—(NRS A 1963, 1049; 1977, 991; 1993, 2092; 2011, 1495)

**NEVADA DEPARTMENT OF CORRECTIONS  
ADMINISTRATIVE REGULATION  
339**

**EMPLOYEE CODE OF ETHICS AND CONDUCT,  
CORRECTIVE OR DISCIPLINARY ACTION, AND  
PROHIBITIONS AND PENALTIES**

**Supersedes:** AR 339 (06/17/12); incorporates AR 340 (08/13/10); AR 341 (08/13/10); and AR 343 (12/17/13); AR 339 (Temporary, 10/13/14); AR 339 (Temporary, 12/10/14); and AR 339 (Temporary, 12/18/14) AR 06/17/12 (Reverted back to last permanent AR on 05/19/15)

**Effective date:** 1/14/16

**AUTHORITY**

NRS 209.131, .239; NRS Chapters 284 & 289; NRS 281A.400; NAC 284.638 -.656; 284.548, 284.738 -.771, 42 U.S.C. § 15601, *et seq.* and 28 C.F.R. Part 115

**RESPONSIBILITY**

The Director/Designee has responsibility for administering employee discipline.

The Appointing Authorities are responsible for enforcement of this Administrative Regulation (AR), utilizing the appropriate state forms. Additionally, the primary responsibility for ensuring that complaint allegations are properly referred and investigated rests with each Warden/Division Head who becomes aware of the complaint or allegation of employee misconduct.

The Department's Human Resources Division is responsible to provide each permanent classified employee with a copy of this AR and maintain records of distribution. The Human Resources Division is also responsible for tracking disciplinary actions and maintaining employee personnel files.

All Department employees are responsible to comply with this AR at all times. This includes immediately reporting any alleged act of employee misconduct to a supervisor.

The Employee Development Manager, in conjunction with the Inspector General (IG), is responsible to develop and deliver training on this AR.

The IG is responsible for and oversees all investigations. The IG will maintain the investigative case file, including copies of related attachments associated with the complaint.

The Warden/Division Heads are responsible to review completed misconduct complaint investigations and adjudicate subordinate employee culpability, making recommendations for corrective or disciplinary action.

### **339.01 CODE OF ETHICS**

1. Employees of the Nevada Department of Corrections should at all times adhere to the following Code of Ethics.

A. The Nevada Department of Corrections is committed to a code of ethics that will guide the performance, conduct and behavior of its employees. This code will ensure that our professionalism is reflected in the operation and activities of the Department and is recognized by all interested parties. In this light, the following principles are practiced:

- (1) Employees shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands.
- (2) Employees shall be courteous, considerate, and prompt when dealing with the public, realizing that we serve the public.
- (3) Employees shall maintain mutual respect and professional cooperation in their relationships with other staff members of the Department of Corrections.
- (4) Employees shall be firm, fair, and consistent in the performance of their duties. Employees should treat others with dignity, respect, and compassion and provide humane custody and care, void of all retribution, harassment, or abuse.
- (5) Employees shall uphold the tenets of the United States Constitution, its amendments, the Nevada Constitution, federal and State laws, rules, and regulations, and policies of the Department.
- (6) Whether on or off duty, in uniform or not, employees shall conduct themselves in a manner that will not tend to bring discredit or embarrassment to the Department of Corrections and the State of Nevada.
- (7) Employees shall report without reservation any corrupt or unethical behavior that could affect either inmates, employees, or the integrity of the Department of Corrections.
- (8) Employees shall not use their position for personal gain.
- (9) Employees shall maintain confidentiality of information that has been entrusted to them.

(10) Employees shall not permit themselves to be placed under any kind of personal obligation that could lead any person to expect official favors.

(11) Employees shall not accept or solicit from anyone, either directly or indirectly, anything of economic value, such as a gift, gratuity, favor, entertainment, or loan which is, or may appear to be, designed to influence their official conduct.

(12) Employees shall not discriminate against any inmate, employee, or any member of the public on the basis of race, color, religion, sex, sexual orientation, age, disability, gender identity or expression, or national origin.

(13) Employees shall not sexually harass or condone sexual harassment with or against any person, including but not limited to any inmate, employee, volunteer, vendor, or any member of the public.

(14) Employees shall maintain the highest standards of personal hygiene, grooming and neatness while on duty or otherwise representing the Department.

### **339.02 EMPLOYEE CONDUCT ON AND OFF DUTY**

1. All Department employees are responsible, at all times, to conduct themselves in an appropriate manner, with honor, integrity, and impartiality whether on or off duty, to obey and support the letter and spirit of the law, and to always exercise appropriate self-discipline in the use of the power and authority entrusted to them.

2. The penalty imposed for a violation of 339.07 Class of Offense Guidelines (18. R.), can range from a CLASS 1 – 5 violation depending upon the facts and circumstances of the particular case.

3. Under the law Peace Officers are expected to abide by the laws they are empowered to enforce. Peace Officer employees will obey all laws of the U.S., State of Nevada, and ordinances in force in their jurisdiction. Violations of law, an indictment or information filed against an officer, or a conviction can be cause for disciplinary action up to and including termination from employment, especially where off-duty conduct tends to bring the Department into public discredit or which tends to affect the employee's ability to perform assigned duties efficiently. Employees must also be careful that the authority vested in them as Peace Officers is not abused.

### **339.03 GOALS OF CORRECTIVE AND DISCIPLINARY MEASURES**

1. Public employees have an affirmative duty to serve the public. The public trusts that the Department will operate within legal and procedural boundaries. Occasionally an employee will step beyond these boundaries, resulting in a misconduct and/or performance complaint. Each time the Appointing Authority adjudicates a complaint public trust is impacted.

2. When an allegation of misconduct and/or performance is Sustained, corrective or disciplinary action shall be applied.
3. Disciplinary action is intended to serve three purposes which are weighed carefully when making recommendations:
  - A. To modify the offending employee's behavior.
  - B. To set expectations for other employees.
  - C. To assure the public that the Department strives to maintain the public trust by holding employees accountable.
4. The offending employee's Appointing Authority is generally the best person to review and recommend the corrective or disciplinary action that will best serve to modify that employee's behavior. However, the recommendation will be superseded if it does not set consistent expectations for all employees or fails to uphold the public trust.

#### **339.04 REPORTING COMPLAINTS OR MISCONDUCT**

1. All Department employees, regardless of rank or position, who become aware of an alleged act of employee misconduct, are responsible to take immediate and appropriate action to control the situation, prevent aggravation of the incident, and notify their chain of command regarding the allegation.
2. All employees at any location must accept complaints of employee misconduct from any source, in any format. If the receiving employee is not a supervisor, a supervisor must be notified immediately.
  - A. Complaints may be based on affirmative acts or failures to act.
  - B. Any failure to comply with posted AR's, OP's, Post Orders, Unit Rules, or other procedures should be reported,
  - C. Lower level issues related to performance need not be investigated by Inspector General staff, as long as an "impartial fact-finding" process is followed.
  - D. An employee who takes a complaint from an outside source may provide the complainant with a copy of the completed NOTIS entry or DOC form 028, including any documentation.
  - E. An employee taking a complaint should have a supervisor or another employee take over if it becomes clear that the complaint is about the employee.
  - F. If the complaint being received is about the employee's immediate supervisor, the employee is authorized to report the complaint to any other supervisor.

3. A supervisor who is informed of a complaint should immediately complete a NOTIS entry or DOC-028. The supervisor should make certain that any documentation is attached.

4. The Appointing Authority is responsible to make certain that reporting forms are correct and complete. Deficient reports will be returned to the Appointing Authority for corrections.

### **339.05 INVESTIGATIONS**

1. The Appointing Authority is responsible for ensuring that allegations of employee misconduct are investigated. The Appointing Authority should request an investigation using the "refer to IG" function in NOTIS.

2. Following receipt of an investigation request, the Inspector General or designee will review the NOTIS preliminary report/DOC-028, any attachments, and any other reports related to the allegations of employee misconduct to determine if an investigation is appropriate. If an investigation is initiated, the Inspector General or designee will identify generally appropriate allegations based upon the Class of Offense Guidelines outlined below and assign the appropriate investigative body.

A. Generally, those offenses identified as Class 1 and 2 will be assigned to the involved Appointing Authority for investigation. At the discretion of the Inspector General or designee, Class 3 offenses may be assigned to the involved Appointing Authority or to an investigator within the Inspector General's Office. Generally, Class 4 and 5 offenses will be assigned to Office of the Inspector General investigators.

B. Incidents of poor or less than standard performance that do not contain an element of misconduct will be assigned to the Warden/Division Head for appropriate action without case assignment.

C. When circumstances dictate that the investigation will involve the interview of civilians or investigation outside of the institution, the investigation will be conducted by the Office of the Inspector General.

3. A preliminary inquiry will be conducted pursuant to the Office of the Inspector General – Guide for Investigators – Preliminary Investigations Section, noting that the original complaint and reports may suffice.

4. Any employee who is the focus or subject of an investigation shall be afforded all rights and protections provided by law, and by Department regulation and directive. Current requirements are in the "Office of the Inspector General – Guide for Investigators."

5. The Inspector General or designee shall review the matter to determine where the investigation will be assigned.



A. If the IG determines that a formal investigation is not necessary, the Inspector General will notify the Appointing Authority, who is then responsible to appoint an individual of the rank of Sergeant/Non-sworn supervisor or higher as an institutional investigator.

(1) If an investigation assigned to an institution subsequently yields evidence of potential criminal misconduct by an employee or others, the Appointing Authority shall immediately notify the Inspector General.

(2) The Inspector General shall review the matter and determine whether the investigation should continue with the Appointing Authority or be returned to the Inspector General's authority.

B. If a formal investigation is required, a case number and investigator will be assigned without delay.

(1) A formal investigation will be conducted pursuant to the Office of the Inspector General – Guide for Investigators.

(2) If it becomes necessary to conduct parallel administrative and criminal investigations regarding a complaint of employee misconduct, the Inspector General shall ensure that the investigations are bifurcated. Information developed during the administrative investigation growing out of the subject's interview shall not be shared in the criminal investigation.

(3) If additional misconduct is discovered during the course of an investigation which is related to the original misconduct, the investigator shall amend the allegations and continue with investigation. If the discovered misconduct is not related to the current investigation, the investigator should generate a new NOTIS entry and submit it for Inspector General review and assignment.

(4) The investigation will be completed within the due date assigned by the Office of the Inspector General and applicable statutes and regulations. The Inspector General's Office may grant extensions requested for reasonable cause.

(5) Where an IG investigator has determined that a polygraph examination would appropriately supplement an investigation, the procedural safeguards provided in the "Office of the Inspector General – Guide for Investigators" will be applied.

C. Upon completion of an employee misconduct investigation, the assigned investigator shall document investigative facts in a final case report according to the guidelines in the "Inspector General – Guide for Investigators."

### **339.06 PROHIBITIONS AND PENALTIES**

1. The Chart of Corrective/Disciplinary measures ascribes an available range of Corrective/Disciplinary action for each Class of prohibited activity. This chart indicates the suggested level of discipline, from less serious to more serious, for the Class of Offense and for first, second and third offenses.
2. Penalties for prohibited activities should be assessed based upon criteria established in the Chart of Corrective/Disciplinary Sanctions.
3. Multiple Infractions - In cases involving more than one sustained violation, disciplinary action should begin with the most serious violation. Other related violations may then be considered as aggravating circumstances when determining the appropriate penalty from within the minimum and maximum recommended range, or each violation may be individually considered and the penalties cumulated.
4. Progressive Discipline - Grave acts of misconduct may warrant dismissal of an employee without previous corrective action or progressive discipline. However, less serious acts of misconduct may warrant the use of progressive discipline, i.e., lesser to greater discipline, to give the employee a chance to reform his or her conduct. The increasing level of concern expressed through progressive discipline may begin with corrective action or proceed to a written reprimand, suspension for up to 30 calendar days, demotion, or dismissal.
5. Appointing Authorities and employees must recognize that penalty schedules cannot accurately, fairly, or consistently address every situation; a comprehensive list of DOs and DON'Ts of employee conduct is not possible. Appointing Authorities must conduct an individual analysis of each employee for each incident and exercise their professional judgment and discretion in recommending a penalty. Training, education, actions, awards, and punishments are interrelated, not separate elements.
6. There is no requirement that charges similar in nature must result in identical penalties. Employees sometimes incorrectly equate fairness and consistency as synonyms; they are not.
  - A. Consistency within a disciplinary system means holding every employee equally accountable for unacceptable behavior. Unacceptable behavior for one is unacceptable behavior for all, regardless of rank, status, or tenure.
  - B. Fairness within a disciplinary system means understanding the numerous circumstances that could contribute to the unacceptable behavior. Disciplinary recommendations must consider these circumstances. Thus, two employees accused of the same misconduct could face different consequences.
7. Appointing Authorities and their reviewers should neither rely solely on previously imposed penalties nor quote them as an authority in penalty rationales. It must be remembered that this is a historical document of penalties. As such, it may not reflect an appropriate penalty for the

misconduct. Indeed, an appropriate penalty may be higher or lower depending upon current issues and the impact of the particular misconduct on the Department and/or fellow employees.

8. Failure to report, failure to act, or failure to disclose is considered misconduct.

9. The Department has developed Class of Offense Guidelines which describe many prohibited employee actions and a Chart of Corrective/Disciplinary Sanctions which recommends penalties for inappropriate conduct.

10. Conflicting activities pursuant to NAC 284.738 include but are not limited to any activity prohibited by AR 332, Employee Reporting Responsibilities; AR 345, Unauthorized Relationships; AR 346, Nepotism; AR 347, Political Activities by Employees; and AR 355, Employee Secondary Employment.

**Chart of Corrective/Disciplinary Sanctions**

	First Offense		Second Offense		Third Offense	
Class	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	Verbal Counseling	Written Reprimand	Written Reprimand	Suspension	Suspension	Dismissal
2	Written Reprimand	Suspension	Suspension	Suspension Demotion	Suspension Demotion	Dismissal
3	Suspension	Suspension Demotion	Suspension Demotion	Dismissal	Dismissal	N/A
4	Suspension Demotion	Dismissal	Suspension Demotion	Dismissal	Dismissal	N/A
5	Dismissal	Dismissal				

### **339.07 CLASS OF OFFENSE GUIDELINES**

#### **I. ABSENT WITHOUT LEAVE (AWOL)**

A. Unexcused tardiness. **CLASS 1**

B. Absence without approved leave for three consecutive scheduled working days.  
**CLASS 5**

C. Any absence without approved leave short of three consecutive scheduled working days.  
**CLASS 2-4**

2. **DISCHARGE OF FIREARM DUE TO NEGLIGENCE**

- A. Discharge of firearm because of negligence. **CLASS 2**
- B. Discharge of firearm due to negligence, with substantial injury/damage. **CLASS 4-5**

3. **ALCOHOL ABUSE**

*The State of Nevada Reasonable Suspicion and Pre-Employment Drug and Alcohol Testing Program provides for the testing of employees and applicants for alcohol and drugs pursuant to NRS 284.406 through NRS 284.407; and NAC 284.880 to 284.894, inclusive.*

- A. Employees under the influence of alcohol with the intent to report to duty or while on duty. First offense. **CLASS 4** Second offense within five years. **CLASS 5**
- B. Appear for duty with the odor of alcohol/intoxicant on person or breath. **CLASS 3**
- C. Purchase or consumption of alcohol while in uniform when off duty. **CLASS 3**
- D. Purchase or possess alcoholic beverage on duty. **CLASS 4**
- E. Consumption of an alcoholic beverage while on duty. **CLASS 4**
- F. Driving while under the influence of alcohol while on duty. **CLASS 4**
- G. Damaging State property while under the influence of an alcoholic beverage. **CLASS 4-5**
- H. Refusal to submit to a lawfully required alcohol test. **CLASS 5**

4. **NARCOTICS/DRUGS**

*The State of Nevada Reasonable Suspicion and Pre-Employment Drug and Alcohol Testing Program provides for the testing of employees and applicants for alcohol and drugs pursuant to NRS 284.406 through NRS 284.407; and NAC 284.880 to 284.894, inclusive.*

- A. Employees under the influence of or using a controlled substance/narcotic/drug, etc. while on duty. First offense. **CLASS 3** Second offense within five years. **CLASS 5**
- B. Peace Officers and/or those employees who come into contact with inmates as a part of their job duties, under the influence of or using a controlled substance/narcotic/drug, etc. while on duty. First offense. **CLASS 4** Second offense within five years. **CLASS 5**

C. Refusal to submit to a lawfully required controlled substance/narcotic/drug test.  
**CLASS 5**

D. An employee driving under the influence in violation of NRS 484C.010 et seq. or of any other offense for which driving under the influence is an element of the offense, and the offense occurred while driving a state vehicle or a privately owned vehicle on state business.  
**CLASS 4-5**

E. Unlawful manufacture, distribution, dispensing, possession, selling, or use of any controlled substance, narcotic, and/or drug at his/her place of work or on state business.  
**CLASS 4**

F. Knowingly transport any person to buy/obtain any illegal controlled substance, narcotic, and/or drug. **CLASS 4**

G. Failure to notify a supervisor after consuming any drug, alcohol and/or substance which could interfere with the safe and efficient performance of his/her duties. **CLASS 4**

**5. CRIMINAL MISCONDUCT**

A. An employee who is convicted of driving under the influence in violation of NRS 484C.010 et seq. or of any other offense for which driving under the influence is an element of the offense while driving a state vehicle, or a privately owned vehicle on state business. (See NAC 284.653.) **CLASS 4-5** Second offense within 5 years. **CLASS 5**

B. An employee who is convicted of the unlawful manufacture, distribution, dispensing, possession, selling, or use of any controlled substance at his place of work or on state business. **CLASS 5**

C. Guilty plea of any type (Alford, no contest, etc.) or conviction of a felony, gross misdemeanor, or misdemeanor. **CLASS 4** Provided the conduct at issue has an adverse impact upon the Department and/or tends to bring the Department into public discredit which tends to affect the employee's ability to perform duties efficiently.

D. Reasonable belief that a felony, gross misdemeanor, or misdemeanor has been committed. **CLASS 4** Provided the conduct at issue has an adverse impact upon the Department and/or tends to bring the Department into public discredit which tends to affect the employee's ability to perform duties efficiently.

E. Domestic violence conviction. [18 U.S.C.A. §§ 917, 922 (Federal Gun Control Act of 1968) as amended, effective October 1, 1996]. **CLASS 5**

**6. DISCOURTESY**

- A. Discourteous or improper remark to a member of the public or a co-worker. **CLASS 2**
- B. Initiate and/or perpetuate malicious rumors regarding fellow employees. **CLASS 2**

**7. DISCRIMINATION, SEXUAL HARASSMENT, AND OTHER TITLE VII VIOLATIONS**

- A. Title VII of the Civil Rights Act pertains to discriminatory acts in the workplace taken against applicants or employees merely on the basis of their race, color, religion, sex, sexual orientation, age, disability, or national origin.
- B. NDOC is required by Title VII to ensure that no discrimination occurs in the workplace. As part of this responsibility, NDOC must provide a system for reporting, prompt investigation, and discipline of employees engaging in unlawful conduct. The goal is to ensure that the alleged harasser stops the discriminatory behavior as well as discouraging other employees who might engage in such behavior from doing so.
- C. "Sexual Harassment" is defined pursuant to NAC 284.771. Therefore, depending on the nature, severity, and duration of conduct in violation of Title VII, NDOC should impose prompt disciplinary sanctions ranging from a **CLASS 3** to a **CLASS 5**.
- D. "Hostile work environment" is a legal term for discriminatory conduct in violation of Title VII by employees that occurs over a period of time and by its nature changes an employee's terms and conditions of employment. It is not a work environment that is unpleasant for reasons not directly associated with Title VII discrimination, such as a grouchy supervisor or ill-mannered co-workers.
- E. Refer to NAC 284.771.
  - (1) Discriminating against or harassing another person because of that person's race, color, religion, sex, sexual orientation, age, disability, gender identity or expression, or national origin. **CLASS 4-5**
  - (2) Make a prohibited discriminatory remark at work or in the work related environment. **CLASS 4-5**
  - (3) Display of discriminatory photographs, cartoons, jokes, or other comments of a discriminatory nature at work or in the work related environment. **CLASS 4-5** (While the NDOC cannot control your personal postings on a social networking site, any inappropriate materials from such a site re-posted in any work-related environment can lead to charges under this section. Similarly, "photo-shopping" an image of a co-worker in a discriminatory fashion can lead to charges under this section.)

8. **DISHONESTY**

- A. Theft, misappropriation, or other fraudulent activity involving Department or State funds, property, or resources, including but not limited to falsification of a timesheet. **CLASS 5**
- B. Theft of property belonging to another employee, a citizen, or an inmate. **CLASS 5**
- C. Knowingly making false statement on travel claims. **CLASS 5**
- D. Receiving travel expenses through false pretenses. **CLASS 5**
- E. Making a personal profit from State transactions. **CLASS 5**
- F. Accepting or soliciting a bribe or gratuity. **CLASS 5**
- G. Converting found, recovered or seized property to personal use. **CLASS 2-5**

9. **FALSE OR MISLEADING STATEMENTS**

- A. Knowingly providing false or misleading statements, including omissions, either verbally or in written reports or other documents, concerning actions related to the performance of official duties. Or knowingly providing false or misleading statements, including omissions, in response to any question or request for information in any *official* investigation, interview, hearing or judicial proceeding. **CLASS 5**
- B. Knowingly falsifying any State record or report. **CLASS 5**
- C. Failure to assure factual accounting and record-keeping to prohibit falsification, unauthorized alteration, or destruction of documents, log books, and other records. **CLASS 5**

10. **FRAUD IN SECURING APPOINTMENT**

- A. Willful falsification of application for employment or other personnel forms. The falsification must deal with a material fact that would have adversely affected the employee's selection. **CLASS 5**
- B. Permitting another person to take a portion of the State Service examination for the employee or for someone else or participating in such an examination for another person. **CLASS 5**

**11. IMPROPER POLITICAL ACTIVITY**

A. Using or promising to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration. **CLASS 2**

B. Engaging in political activity during the hours of their state employment to improve the chances of a political party or a person seeking office, or at any time engage in political activity to secure a preference for a promotion, transfer, or salary advancement. **CLASS 2**

C. Engaging in any unauthorized political activity, except for expressing an opinion, while on duty, while in uniform, or at public expense. **CLASS 3**

D. Soliciting and/or influencing any employee to engage or not engage in any political activities with direct or indirect use of any threat, intimidation, or coercion. This includes threats of discrimination, reprisal, force, or any other adverse consequence including loss of any benefit, reward, promotion, advancement, or compensation. **CLASS 5**

E. Subjecting any employee who chooses not to engage in any political activity to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement, or compensation. **CLASS 5**

**12. INSUBORDINATION**

A. Disobeying or refusing to obey a statute, regulation, written or verbal instruction, or lawful order. **CLASS 4-5**

B. Disobeying or refusing to obey a statute, regulation, written or verbal instruction, or lawful order, involving a potential or an actual security breach, especially which leads to personal injury. **CLASS 5**

C. Argue about the wisdom or propriety of a lawful order or decision; back-talking. **CLASS 2**

D. Refusal to undergo a search of person or property on institutional property. **CLASS 5**

E. Failure to provide identification or display proper I.D. **CLASS 1-2**

F. Unauthorized service and or acceptance of legal process. **CLASS 1**

G. Unauthorized representation of Department. **CLASS 2-5**

H. Disobeying the State of Nevada smoking statutes and/or Department tobacco prohibition regulations. **CLASS 3**



I. Use of profane, disparaging, or abusive language directed at, with, to and/or around or to otherwise make another employee(s) aware of an attempt to embarrass, ridicule or degrade a supervisor of the institution, Department or State of Nevada Service. **CLASS 3-5**

J. Refusal to work mandatory overtime. **CLASS 3** Any subsequent refusal. **CLASS 4-5**

**13. MISUSE OR UNAUTHORIZED USE OF PROPERTY**

*Behavior under this category may also subject the employee to civil or compensatory penalties or criminal prosecution.*

A. Damage to or loss of State property or equipment due to neglect or carelessness.  
**CLASS 2-5**

B. Failure to properly maintain State property and/or Department equipment.  
**CLASS 1**

C. Unauthorized use, misuse, or waste of property belonging to the State or Department.  
**CLASS 2-5**

D. Unauthorized destruction of State records. **CLASS 5**

E. Speeding or committing other traffic violations while driving a State-owned vehicle, or reckless handling of other State equipment. **CLASS 2**

F. Using Department vehicle for other than official business or for personal use and benefit.  
**CLASS 3**

G. Deliberate waste of materials or supplies. **CLASS 2**

H. Unlawful removal of State property. **CLASS 5**

I. Improper use of Department communications or information systems. **CLASS 4**

J. Permitting inmates to use Department telephones, or be in an area unsupervised where staff telephones are accessible, except as otherwise authorized by administrative regulations.  
**CLASS 4**

K. Intentional destruction, damage to or loss of property or State equipment. **CLASS 4-5**

L. Loss of or damage to inmate property caused by an employee of the Department which is attributable to negligence, lack of reasonable care, failure to follow proper procedures or misconduct on the part of the employee. **CLASS 2-4**

#### **14. COMPUTER USAGE VIOLATIONS**

- A. Unauthorized or improper use or copying of proprietary software, electronic file, program, or data. **CLASS 4-5**
- B. Unauthorized use or distribution of Department data or programs for other than the administration of Department duties, responsibilities, and business. **CLASS 3-5**
- C. The introduction or use of computer hardware or software to or on Department computers or systems, including but not limited to, downloading any such materials without prior authorization. **CLASS 3-5**
- D. Using another employee's password to access Department computers. **CLASS 3**
- E. Providing or exposing your password to any other person. **CLASS 3**
- F. Failure to secure your Department computer, or accessing a Department computer which has been left unsecured. **CLASS 3**
- G. Use of State or Department e-mail, intranet, or Internet system which violates any statute, regulation, Administrative Regulation, policy or procedure for purposes not directly related to Department duties or unrelated to the Department mission. This includes activities such as access to or distribution of computer games or use for private business. **CLASS 3-4**
- H. Use of State or Department equipment for gambling. **CLASS 5**
- I. Use for access to or distribution of pornographic material as defined by NAC 284.646(4). **CLASS 5**
- J. Forging a digital signature. **CLASS 5**
- K. Attempting to, or intentionally using e-mail or Internet facilities to disable, impair, overload or disrupt computer or network performance, services or equipment, or to circumvent any system intended to protect privacy or security of another user or the system or to harass other users. **CLASS 5**
- L. Unauthorized use to inappropriately seek, distribute, obtain copies of, modify, or distribute information, files, or other data that is private, confidential or not open to public inspection. **CLASS 5**
- M. Intentionally allowing an inmate to have any password protected file. **CLASS 5**
- N. Permitting an inmate to have access to privileged, confidential, or sensitive information contained on a computer. Employees should not access such information on their computer screens with inmates in the vicinity. **CLASS 4**

O. Leaving an inmate unsupervised in any area containing access to privileged, confidential, or sensitive information on an unsecured computer. **CLASS 5**

P. Improperly permitting an inmate to work on, use, or otherwise access any computer, computer system, or information system of the State or the Department so that:

(1) the inmate may be connected in any way to a modem, network or similar device which would allow communication outside a Department facility;

(2) the inmate may collect, organize, or otherwise use personal, Department, or State proprietary or confidential information; OR

(3) the inmate participates in providing technical or other assistance with a computer problem. **CLASS 5**

Q. Purposefully circumventing State or Department internet security for any reason including but not limited to accessing unauthorized internet web sites. **CLASS 3-4**

**15. NEGLECT OF DUTY**

A. Careless or sloppy work; frequent mistakes or errors. **CLASS 1**

B. Failure to complete work assignments. **CLASS 1**

C. Failure to complete and submit required reports to supervisor or other designated person. **CLASS 2**

D. Failure to take corrective action when warranted. **CLASS 1-2**

E. Willful failure to intervene or respond when necessary. **CLASS 3**

F. Making inappropriate recommendations. **CLASS 1**

G. Wasting time or loitering. **CLASS 1**

H. Failure to devote full time, attention and effort to assigned duties. **CLASS 2**

I. Conducting outside/personal business on State time. **CLASS 2-3**

J. Engage in unauthorized off duty employment, activity or enterprise determined to be inconsistent, incompatible, or in conflict with duties as employees of the Department. **CLASS 3**

- K. Engage in secondary employment without an approved Request for Secondary Employment Form. **CLASS 2**
- L. Failure to keep work area clean and uncluttered causing a work hazard. **CLASS 1**
- M. Misplacement of important documents or property. **CLASS 1**
- N. Disregard of safety rules. **CLASS 2-4**
- O. Intentionally initiating or causing a disruption of normal operations. **CLASS 4**
- P. Failure to make proper notification of sick leave. **CLASS 2**
- Q. Failure to maintain telephone or other method of delivering messages at residence. **CLASS 1**
- R. Failure to maintain required uniform. **CLASS 1**
- S. Failure to wear appropriate clothing consistent with assigned duties. **CLASS 1**
- T. Failure to appear for court or a hearing when duly notified or subpoenaed. **CLASS 3**
- U. Failure to comply with any court order or judgment. **CLASS 3-5**
- V. Failure to maintain personal appearance appropriate to the job. **CLASS 1**
- W. Loss of seized, found, or recovered property by negligence. **CLASS 1** Willful failure to appropriately identify and secure such property. **CLASS 2**
- X. Allowing unauthorized personnel to enter work areas. **CLASS 2**
- Y. Failure to ensure subordinate employees perform required duties. **CLASS 1**
- Z. Failure to report to a supervisor when tired or ill. **CLASS 2**
- AA. Sleeping on duty or failure to remain fully awake while on duty. **CLASS 4**
- BB. Failure to assure safety and security as part of effective job performance, employees remain alert, aware of, attentive and responsive to their surroundings while on duty. **CLASS 4**
- CC. Failure to report misconduct, or failure to report or notify supervisor concerning incidents, activities, events of immediate interest or concern, or matters impacting PREA which take place within the jurisdiction of, or which impact, the Department. **CLASS 1-5**

- DD. Failure to exercise proper supervision over offenders. **CLASS 2**
- EE. Concealing or covering-up of defective workmanship. **CLASS 2**
- FF. Failure to report an arrest or conviction of any misdemeanor, gross misdemeanor, or felony within 24 hours or before the beginning of their next shift. **CLASS 2**
- GG. Failure to report suspension or revocation of a driver's license when a valid driver's license is a requirement of the position. **CLASS 2**
- HH. Failure to report contact with law enforcement (other than in matters involving routine traffic stops, random automobile stops and road blocks, and other than in cases involving the rendering of assistance to law enforcement) or having been notified that employee is the subject of a criminal investigation, or that a criminal investigation is proceeding against employee. **CLASS 2**
- II. Preferential treatment of subordinates or offenders. **CLASS 2**
- JJ. Failure to respond to radio call. **CLASS 2**
- KK. Unauthorized possession of weapons or security equipment on State Property. **CLASS 5**
- LL. Failure to perform security functions, violation of any safety rule, or violating or endangering the security of an institution. **CLASS 4-5**
- MM. Intentional failure to discharge duties, whether custodial or other job responsibilities, provided that failure results in (a) escape of a prisoner (b) the serious physical injury (c) sexual assault or (d) death of another person. **CLASS 5**
- NN. Engaging in any act or communicating information in any fashion that could assist any individual to escape arrest, detention and/or punishment, or enables any individual to dispose of or conceal evidence. **CLASS 5**
- OO. Withholding information or concealing suspected criminal activity to shield individuals from detection, arrest, detention or punishment. **CLASS 5**
- PP. Attempting to have any formal charges dismissed, reduced, avoided or stricken from any court calendar, except as provided by law. **CLASS 4**
- QQ. Take any action that interferes with the administration of criminal justice, including intentionally interfering with the service of subpoenas, other lawful process, or the attendance or testimony of any witness at any lawful proceeding. **CLASS 5**

RR. Concealing, altering, falsifying, destroying, removing, tampering or withholding any property or evidence associated with any alleged misconduct, investigation, arrest, or other administrative or enforcement action. **CLASS 5**

SS. Removing, copying, concealing, altering, falsifying, destroying, stealing, or tampering with any record, report, or other official document maintained by the State, Department or any other criminal justice agency. (Official Department reports may be removed and/or copied only as allowed by law and Department policy/procedure.) **CLASS 5**

TT. Leaving an assigned post while on duty without authorization of a supervisor.  
**CLASS 5**

UU. Failure to meet Peace Officer Standards & Training (POST) requirements. **CLASS 5**

VV. Failure to maintain a valid driver's license when it is a condition of employment.  
**CLASS 5**

WW. Failure to maintain license, certification, etc. when condition of employment.  
**CLASS 5**

XX. Introduction of a telecommunication device as described in NRS 212.165. **CLASS 5**  
When the introduction of the telecommunications device is immediately self-reported by the employee, no calls have been made or received through the device during the time it has been inside the institution, and the employee has been discipline-free during the previous 12 months. **CLASS 2**

YY. Possession and/or Introduction of non-intoxicant contraband. Contraband is any item not issued by the State to properly perform job duties. An employee must obtain written approval of the Warden or designee to possess any personal items while on duty. **CLASS 4**

ZZ. Possession and/or introduction of an intoxicant contraband, including narcotics and alcohol. **CLASS 5**

AAA. Failure to cooperate with official investigations conducted by the Department or other criminal justice agencies, when such failure does not violate an accused's Constitutional self-incrimination protection. **CLASS 3**

BBB. Failure to safely operate motor vehicles while on duty – When the failure results in significant damage, bodily injury or death. **CLASS 5** When the failure results in minimal damage and/or minor injuries. **CLASS 3**

16. **SEXUAL ABUSE**

A. Any sexual contact including but not limited to, oral sexual contact, including kissing any body part or sexual penetration, masturbation, or physical contact with the clothed or

unclothed genitals or pubic area to arouse, appeal to or gratify sexual desires involving any individual other than an inmate on State time and/or involving State property or equipment. **CLASS 5**

B. Custodial Sexual Misconduct defined as sexual abuse is any behavior or act of a sexual nature, either consensual or non-consensual, directed toward an inmate by an employee, volunteer, contractor, official visitor, or agency representative. These acts include but are not limited to:

- (1) Unauthorized, intentional touching of the clothed or unclothed genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse or gratify sexual desire;
- (2) Unauthorized, intentional touching, fondling, or caressing of an inmate's person, directly or indirectly, related to a "romantic" relationship;
- (3) Completed, attempted, threatened, or requested sexual acts; or
- (4) Occurrences of indecent exposure, invasion of privacy or staff voyeurism. **CLASS 5**

*Voyeurism by a staff member, contractor, or volunteer is defined as:* invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

C. Staff on inmate sexual harassment includes staff, volunteers, or contractors who have contact with an inmate. Prohibited conduct includes but is not limited to repeated instances of:

- (1) Verbal comments of a sexual nature to an inmate;
- (2) Demeaning references to gender;
- (3) Sexually suggestive or derogatory comments about body or clothing; or
- (4) Profane or obscene language or gestures, first offense **CLASS 3-5, second or any subsequent offense Class 5**

D. Failure to report an inmate's sexual activity. **CLASS 5**

#### **17. UNAUTHORIZED USE OF FORCE**

A. Willfully employing or permitting the use of unnecessary, unauthorized, or excessive force. **CLASS 4-5**

- B. Creating a situation where force must be used unnecessarily. **CLASS 4**
- C. Failing to report any use of force either as a participant or a witness. **CLASS 3-4**

**18. UNBECOMING CONDUCT**

- A. Engaging in horseplay with co-workers. **CLASS 3** With inmates. **CLASS 4-5**
- B. Gambling on State property or while on duty or gambling while in uniform. **CLASS 2**
- C. Unprofessional remark to an inmate. **CLASS 1**
- D. Providing contraband to an inmate. **CLASS 5**
- E. Abuse of sick leave. **CLASS 2**
- F. Misuse and/or abuse of supervisory authority or privilege. **CLASS 2**
- G. Any violation of AR 345 regarding unauthorized relationships. **CLASS 1-5**
- H. Divulging criminal records, medical records, or other legally protected information of one person to another, except when necessary to conduct the Department's business. **CLASS 5**
- I. Unauthorized disclosure of confidential Department matters. **CLASS 4**
- J. Compromising the confidentiality of inmate affairs. **CLASS 3-5**
- K. Conducting unauthorized transactions with an inmate or an inmate's family. **CLASS 5**
- L. Transmitting prohibited messages to or for inmates. **CLASS 3-5**
- M. Identified self, displayed badge or identification, appeared in uniform, or made improper use of your status as a Department employee other than is necessary, whether on or off duty. **CLASS 2-5**
- N. Retaliated against another employee or an inmate for reporting a complaint of misconduct, to include sexual harassment or sexual abuse of an inmate, or retaliated against another employee or an inmate who cooperates with an official PREA investigation. **CLASS 4-5**
- O. Inciting another to fight. **CLASS 4**
- P. Unauthorized use, misuse, destruction or waste of property belonging to the State of Nevada, another employee, a citizen, or an inmate. **CLASS 1-5** (Such misconduct



may subject the employee to financial liability for replacement of the property, whether attributable to negligence, lack of reasonable care, or failure to follow proper procedures.)

Q. Displaying pornographic or adult pictures, movies, videos or text to inmates, employees or to persons outside of the Department while on paid status or on State property. **CLASS 5**

R. Any conduct whether on or off duty which may negatively reflect upon the image of the State of Nevada or the Department of Corrections. **CLASS 1-5**

S. Verbal threats or display of intimidating behavior towards a staff member. **CLASS 3**

### **339.08 ADJUDICATION**

1. After the assigned investigator or supervisor completes the final case report, the Appointing Authority will adjudicate the matter within the time assigned, designating the final applicable Class of Offense Guidelines, using the appropriate form, and in coordination with the Office of the Inspector General.

2. The Appointing Authority shall prepare the Result of Adjudication Form, DOC-1096. Thereafter, the Appointing Authority should meet with the accused employee to advise the employee of the findings and recommendations.

### **339.09 IMPOSING CORRECTIVE or DISCIPLINARY ACTION**

1. Employee performance issues should be addressed at the lowest appropriate level of supervision beginning with verbal counseling and through Specificity of Charges.

2. Corrective action includes a verbal or written counseling, which may be recorded on the performance card, as well as a Letter of Instruction or a Written Reprimand.

3. Before issuing corrective action, the Appointing Authority should make certain that no formal investigation related to the performance or misconduct issue is still pending. While performance issues or low-level misconduct will not usually be subject to a formal investigation, the impartial fact-finding process may determine that an issue appearing to be more serious at the outset does not require discipline.

4. Except for PREA-related matters, prior to an investigation, verbal or written counseling may be used to immediately correct safety or security issues. This counseling should include an acknowledgment that further investigation leading to discipline may follow in due course.

5. Verbal or written counseling and Letters of Instruction may be used to supplement the evaluation process, between regularly scheduled reports on performance.

6. An impartial fact-finding investigation is required before imposition of a suspension, demotion, or dismissal.

7. When a suspension, demotion or dismissal is warranted, a Specificity of Charges (NPD-41) should be drafted, utilizing the appropriate format located on the Stewart shared drive.

### **339.10 CONFIDENTIALITY OF PERSONNEL RECORDS**

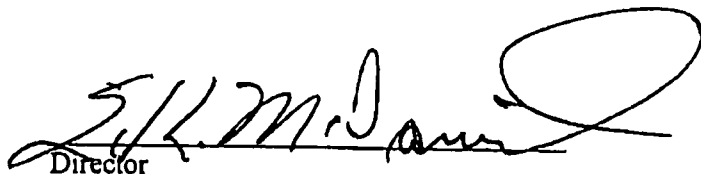
1. All documents assembled or produced in support of this regulation are confidential.
2. Files may be reviewed by a subject employee pursuant to applicable sections of NRS Chapters 284 and 289.
3. Files may be copied by a subject peace officer pursuant to applicable sections of NRS Chapter 289.
  - A. Once an appeal has been filed, a peace officer may request a copy of the investigative file, using the DOC-1066 form.
  - B. The DOC-1066 form is available on the shared drive and should be submitted to the Department's Human Resources Division.


### **APPLICABILITY**

1. This regulation applies to all employees of the Department.
2. This regulation does not require an Operational Procedure.
3. This regulation does not require an audit.

### **REFERENCES:**

ACA Standards 4-4048, 4-4067, and 4-4069; 2008 Supplement 4-4069; 2010 Supplement 4-4069; and 2012 Supplement 4-4067 and 4-4069

  
Director

  
Date

# EXHIBIT D

# EXHIBIT D

*Respondent's* EXHIBIT # D

## **ADMINISTRATIVE REGULATION 405**

### **USE OF FORCE**

**Supersedes:** AR 405 (Temporary, 06/23/11) (Temporary, 03/03/16)

AR 405 (Temporary, 5/25/16) AR 405 8/16/16

**Effective Date:** 9/13/16

**AUTHORITY:** NRS 209.131, 209.161, 212.090 and 212.190

### **RESPONSIBILITY**

1. The Warden/Division Head is responsible for the overall execution of this regulation. Direct supervision of this regulation is the responsibility of the Shift Supervisor (institutions/facilities) and/or the Transportation Lieutenant/Sergeant in regards to Central Transportation Division.
2. The Warden at each institution will ensure that all assigned staff is trained and have signed an acknowledgement statement that they have read, know and understand this regulation. A copy of their acknowledgement will be maintained in each staff members personnel file.

### **DEFINITIONS**

**Authorized Personnel** – A person who has received the prescribed NDOC training in the application of Use of Force equipment or tactics, and whose qualifications are up-to-date.

**Deadly Force** – Any force which carries a substantial risk that it will result in death or serious physical injury.

**Excessive Force** – The use of more force than an objective trained and competent correctional peace officer faced with similar facts and circumstances would use to subdue an attacker, overcome resistance, affect custody or gain compliance with a lawful order.

**Force** – Any violence, compulsion, or constraint physically exerted by any means upon or against a person.

**Less Lethal Force** – any force that is neither intended nor likely to cause death or serious physical injury.

**Passive Compliance Measures** – Techniques/strategies used by staff to gain compliance/control of an inmate without forcible physical contact.

Planned Use of Force - The Use of Force when time and circumstances allow the opportunity for planning and consultation and approval of the Warden or Administrator On Duty (AOD)

Physical Force (Hands On) - The use of hands, other parts of the body, objects, instruments, chemical devices, firearms, or other physical methods for the purpose of overcoming the resistance to lawful authority.

Reasonable Force - That force which is objectively reasonable based on the totality of the circumstances and the facts known to the officer at the time to subdue an attacker, overcome resistance, affect custody, or gain compliance with a lawful order.

Show of Force - Movement of appropriate staff and/or equipment/weapon to an incident site for the purpose of convincing an inmate that adequate staff and measures are available and will be used to successfully resolve the situation.

Skip Shot - A live rubber round discharged from a 12gauge shotgun that is fired at the ground one to two yards in front of the intended inmate so that the individual live rounds skip off the ground/floor striking the intended inmate(s) lower extremities.

Spontaneous Use of Force - Actions that staff may immediately take in response to an emergency situation.

Use of Force - The application of progressive levels of force to gain control of an inmate up to and including deadly force. This does not include those situations in which security restraints are used in a standard manner for arrest, escort or transport. (Use of Force will be limited to the minimal amount of force necessary to control the situation.)

#### **405.01 USE OF FORCE GENERAL PROVISIONS**

The NDOC shall operate under this use of force policy that defines staff responsibilities and limitations concerning the use of force while still allowing discretion in the appropriate application of force. The policy provides staff with the appropriate guidance on the permissible Use of Force. It ensures discipline is imposed for violations of the Use of Force policy, procedures or training.

It is the policy of the NDOC to authorize the use of physical force when and only to the extent that is reasonably believed to be necessary as specified in these rules. Staff are authorized to use that amount of force that is objectively reasonable to overcome a threat thereby minimizing the risk of injury to the officer, the threat and the public.

At no time are staff permitted to use force for punishment, retaliation or discipline.

Force shall be used only when reasonably necessary to subdue an attacker, overcome resistance, affect custody, or to gain compliance with a lawful order. It is the policy of the NDOC to accomplish the educational, treatment and supervision functions with minimal reliance on the use of force. Staff may use reasonable force as required in the performance of their duties, but unnecessary or excessive force shall not be used. If staff, at any point, determines the situation can be resolved without any further use of force, staff shall terminate the use of force.

#### **405.02 STAFF TRAINING INVOLVING USE OF FORCE**

1. All personnel will receive training and be qualified prior to being assigned to a position involving possible Use of Force and being authorized to use any force related equipment such as physical restraints, firearms, chemical agents (CS/OC), taser or similar technology or batons. A staff member employed in positions that are authorized to use force-related equipment will receive annual refresher and semi-annual firearms qualification training in the correct use of all equipment to maintain their established proficiency levels.
2. Training will include:
  - A. Techniques/strategies known as Passive Compliance Measures used by staff to gain compliance/control of an inmate without forcible physical contact such as: communications, videotaping of inmate(s), show of force.
  - B. Staff is expected to know the Continuum of Force and be able to apply the proper level and type of force needed to control an inmate's behavior. Minimum harm to staff, the public and inmates is the goal, but the overall objective is to gain compliance, control, and facility order. Force should be limited to the minimum amount necessary to control the situation. Force will not be used to punish, harass, coerce, or abuse inmates.

#### **405.03 WHEN FORCE MAY BE USED**

1. A staff member may use force to protect himself or any other individual from physical harm by an inmate.
2. Force will be proportionate to the threat exhibited by the inmate, and the force will decrease as the threat is lessened.
  - A. Any staff witnessing a Use of Force that is either excessive or unnecessary is required to immediately report their observations to the shift supervisor both verbally, subsequent to the incident, in a written report.
3. To prevent the escape of an inmate, staff may use reasonable force to prevent the escape if no alternative method of persuasion is effective.

4. To prevent destruction of state property.
  - A. Staff may use force to prevent state property from substantial damage by an inmate if no alternative method of persuasion is effective.
  - B. Nevada Revised Statute (NRS) 212.190 states that damaging prison property is at least a gross misdemeanor.
5. To compel an inmate's compliance with orders, force may be used if no alternative method of persuasion is effective or where the circumstances require urgency.
6. To prevent or quell a disturbance, disperse or apprehend inmates whose conduct is creating a risk of death or serious physical injury to others.
7. Levels of Force:
  - A. Planned use of force can be used at any level in the use of force continuum. Planned use of force incidents should be videotaped. Staff involved in these incidents should utilize protective equipment. An example of planned use of force is a cell extraction.
    - a. In a planned use of force, the Incident Commander in charge will assign a staff member to be in charge of recording the entire planned use of force.
    - b. The staff member assigned to recording will ensure, prior to the start of the use of force, that the recording equipment has sufficient batteries and sufficient blank recording space, such that technical issues with recording will be minimized once recording begins.
    - c. The staff member assigned to recording should not be expected to participate in the use of force and should not do so, such that they may dedicate their full attention to recording. The recording staff member should refrain from engaging in verbal comments during the recording, as staff comments will obscure the sounds being recorded. The recording staff member must also record in such a manner that the inmate is in focus as much as possible, and adjust their positions should a staff member's body position be obscuring a visual of the inmate.
    - d. All recordings of a planned use of force should be kept in a manner and location that is easily retrievable in the event review is needed. The recording must be maintained for no less than three years from the date force was used.
  - B. Spontaneous use of force may be used by staff to respond to an emergency when there is not time to formulate a plan or notify an immediate supervisor, and the situation constitutes a serious threat to the safety of staff, public, inmates and/or

prison security. Immediate use of force should be employed in a manner that poses the least risk to staff, the public and inmates.

- a. Where force was used spontaneously, regardless of injuries reported contemporaneous with the event, the area supervisor/incident commander will immediately review, if available, any unit video surveillance that may have captured the use of force.
- b. If the use of force was captured on video, from any angle on any camera, the area supervisor/incident commander will be responsible for preserving that recording in a manner and location that is easily retrievable in the event review is needed. The video must be maintained for no less than three years from the date force was used.
- c. If no cameras were operational in that unit or no cameras captured the use of force, the area supervisor/incident commander will make a notice of same in the Use of Force Incident Report.
- d. In addition to and apart from any surveillance footage from stationary cameras that may exist, video footage should also be recorded via a hand-held camera, as follows:
  - As soon as the shift supervisor becomes aware that force is being used or has been used, a staff member will be directed to immediately obtain a handheld video camera and will be ordered to the scene where force has been used.
  - Immediately upon arrival to the scene, the staff video recorder will begin recording, noting the time and date the recording begins. The staff video recorder will continue to take footage until the area supervisor/incident commander decides the incident is over and instructs the staff video recorder to cease recording.

If the Use of Force is still occurring when the staff video recorder arrives, the incidents will be recorded to capture the unfolding events while waiting for a response team, even if through windows, fences, bars, or even if far away, etc. Staff should not place themselves in any danger to capture the events.

- C. The Warden/Division head will ensure that Use of Force Operational Procedures are specific on the process for the recording of Use of Force incidents and storage of the video recordings.



#### **405.04 AUTHORIZATION FOR THE USE OF LESS LETHAL FORCE**

"Less lethal force" may be used in the following situations:

1. Self-defense;
2. Defense of others;
3. Prevention of self-injurious behavior;
4. Maintaining order and control in a facility, including prevention of damage to state property;
5. Prevention of escape from any security level;
6. Prevention of the commission of a felony by an inmate;

#### **405.05 LESS LETHAL FORCE**

1. Physical Force (Hands On) - Physical force may be used to subdue unruly inmates, to separate inmates fighting, and in defense of self or others. It may also be employed to move inmates who fail to comply with lawful orders. Includes certain self-defense and inmate control techniques or strikes to areas of the body unlikely to result in serious physical injury.
2. Chemical / Inflammatory agents may be deployed only by trained and qualified Authorized Personnel. Chemical agents items such as listed below are designed to temporarily immobilize or incapacitate the inmate through temporary discomfort caused by a chemical action.
  - CS - Ortho-chlorobenzalmalononitrile - commonly known as tear gas or mace
  - OC - Oleoresin Capsicum - commonly known as pepper spray
3. Electronic Control Devices (ECD), to include items such as a Taser/electronic stun gun, Remote Access Custody Control (RACC) Belt, or electronic shield, are designated to temporarily immobilize or incapacitate an inmate by delivering a non-lethal electronic charge. An ECD may only be deployed by trained and qualified Authorized Personnel.
4. Specialty Impact Devices (SID) Side handle batons or Expandable Baton or similar equipment designed to temporarily incapacitate an inmate by striking or applying a controlled take down of the inmate. These SID's may only be used by trained and qualified Authorized Personnel.
5. A 12-gauge shotgun loaded with a blank round and three (3) rubber stinger rounds to skip shoot into the inmate(s) striking the inmate(s) in their lower extremities to

temporarily incapacitate or immobilize the inmate(s). Shotguns may only be used by trained and qualified Authorized Personnel.

- A. First, a loud and clear verbal warning or order should be given. Verbal warnings should be repeated before each shot fired of any ammunition type.
- B. Second, if the first verbal warnings or orders fail to stop the prohibited activity, then a blank warning shot may be discharged.
- C. If the initial warning shot fails to stop the prohibited activity, then a rubber stinger may be discharged skip shot towards the inmates.
- D. If the rubber stinger round fails to stop prohibited activity, then a second rubber stinger round may be skip shot into the ground/floor at the problem inmates.

**Caution: If there is no ability to skip shoot into the ground/floor, then live rounds will NOT be discharged unless the inmate possesses a deadly weapon or serious physical injury and/or death is imminent. In this instance refer to 405.06.**

- E. The progression from the warning shot to the rubber stinger round will be dictated by the level of the threat.

1) Firing of a warning shot: If the conduct or activity does not stop then you can progress to firing of the Rubber Stinger round (skip shot).

- An inability to skip shoot will include those instances where the disturbance is occurring in an area crowded by other inmates who are already lying prone on the ground.

2) If the threat increases to include;

- More than two aggressors involved
- Persons being over taken to the point where serious physical injury and/or death is imminent
- Groups of inmates forming and being non-compliant

3) You can then progress to firing of the additional live rubber rounds, skip shot only.

- F. No less lethal force should be used to stop verbal abuse or other non-threatening behavior.

#### **405.06 AUTHORIZATION FOR USE OF DEADLY FORCE**

Staff have the obligation and responsibility to exercise discipline, caution, restraint and good judgment when using potentially deadly force. Deadly force may be used upon the reasonable belief that staff life or safety, or the life or safety of another, is in imminent

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danger of death or serious physical injury, given the totality of the circumstances known to the officer at the time of his/her action. Staff must keep in mind that the use of potentially deadly force presents a danger to the subject and to innocent parties. Only trained and qualified staff are authorized to use deadly force, and only as a last resort. Officers should consider other reasonable means of control before resorting to the use of deadly force as time and circumstances safely permit.

Deadly force is that degree of force which is likely to result in death or serious physical injury. Deadly force may be used only in the following situations:

1. To prevent death or serious physical injury to self, other staff, inmates, or other persons who are threatened;
2. To prevent the taking of hostages;
3. To prevent the escape of any prisoner who is actively attempting to flee custody from a medium or maximum security correctional institution including while being transported or being housed in the community;
4. To prevent destruction or injury to property or person(s), major damage during a disturbance within a correctional institution, if it is reasonably believed that the damage may cause death or serious physical injury to any person.
5. To prevent inmates from unlocking other inmates (seizure of keys or door controls).
6. If deadly force is to be used, staff will take reasonable actions under the following guideline - Time permitting a clear, verbal warning order, "Stop or I will shoot," will be given before each shot is discharged.
7. When the use of deadly force is warranted, if time and circumstances permit, a warning shot will be discharged.
  - A. In any life-threatening situation where the inmate does possess a deadly weapon or serious physical injury and/or death is imminent, the policy will be to "shoot to stop" by shooting at a vital portion of the body, such as the torso.
  - B. Every effort should be made to direct the round into the aggressor and not the victim.
  - C. If doubt exists in the officer's mind as to whether he should discharge the firearm under the circumstances that have been outlined above, the officer should conclude that he SHOULD NOT discharge the firearm.

#### **405.07 DEADLY FORCE**

1. Mini 14 .223 caliber rifle loaded with 55 grain soft point rounds. May only be used by trained and qualified Authorized Personnel.
2. .40 caliber Glock semi-automatic hand gun loaded with hollow point 165 to 180 grain round – approved through FBI protocols/specifications. May only be used by trained and qualified Authorized Personnel.
3. Specialized weapons may be authorized for emergency situations with approval from the Director/designee. May only be used by trained and qualified Authorized Personnel. Refer to Administrative Regulation (AR) 412 Armory Weapons and Control, for descriptions of authorized weapons, munitions and less lethal equipment.

#### **405.08 ESCAPE FROM SECURED PERIMETER**

1. If possible, prior to using firearms, attempts should be made to apprehend or physically restrain an escapee or an attempted escapee.
2. If an officer observes an inmate located within the "No Man's Land," an immediate alarm will be sounded to initiate a response then the following command in a loud and firm voice, will be given, "Stop or I will shoot." If the inmate fails to stop and no other means of stopping the inmate is available, then the officer may fire a warning shot as outlined in this procedure.
3. If the inmate continues toward the inner perimeter fence, after verbal warnings and a warning shot has been discharged, additional warning shots may be discharged near the escaping inmate in an effort to gain compliance. The officer must exercise care to prevent a possible ricochet of the warning shots. (Wardens will designate in operations procedures where warning shots will be discharged.)
4. Once an inmate has begun going over, under, or through the inner perimeter fence, (that is, feet have left the ground or crawling under or through), the following will be done:
  - A. The officer, after firing a warning shot, will "shoot to stop."
  - B. The officer will choose which firearm to use based on distance and conditions surrounding the incident. The perimeter towers have both 12 gauge shotguns with .00 buckshot and .223 Mini-14 rifles designed for greater distance and accuracy.
    - Effective ranges:
      - .223 caliber round - up to 1000 yards
      - 00 buckshot - up to 150 yards

5. Should the situation arise in which the inmate attempting to escape is not noticed until after clearing the inner perimeter fence, the officer will fire one (1) warning shot if, in their opinion, there is still sufficient time to be able to "shoot to stop" before the inmate could clear the outer perimeter fence. If there is not enough time for a warning shot after the inmate has cleared the inner fence, then shots may be discharged directly at the escaping inmates to shoot to stop.

#### **405.09 USE OF FORCE IN THE COMMUNITY**

1. There are numerous situations that call for Department personnel to provide escort and security functions in the community. Inmates may be transported to outside medical facilities, between institutions/facilities, into courtrooms for judicial proceedings or to a variety of other locations. Use of Force in the community calls for exercising extreme caution and for making careful judgments. The level of force utilized in any particular situation MUST be based largely on, the threat, physical surroundings and the proximity of civilians.
2. The physical surroundings and proximity of civilians MUST be considered when an inmate is escaping during transport in an outside setting and if deadly force is necessary to prevent the inmate from escaping. If, in the best judgment of the transporting officer(s), it is deemed necessary to fire shots at the inmate escaping into the community, all shots will be directed at the inmates' torso with the intent to completely stop the escape.
3. Officers are required to cooperate with local law enforcement officials in any unusual or emergency situation involving inmates under the custody of the Department of Corrections.

#### **405.10 MEDICAL CARE AFTER USE OF FORCE**

- A. Medical care which includes medical treatment and examinations will be conducted by institutional medical staff when a Use of Force incident has occurred. When order has been restored, the inmate(s) who has been subjected to any Use of Force will be examined by medical staff and provided medical care proportionate to the individual's injuries sustained. This examination will be documented utilizing the Unusual Occurrence Report form DOC 2514. All refusals of medical treatment will be documented and included in the Use of Force incident files utilizing the Refusal of Medical Treatment form DOC 2523.
- B. Any staff member involved in the Use of Force sustaining injuries will be examined by NDOC medical staff and will provide emergency medical care proportionate to the individual's injuries prior to transport to an appropriate healthcare facility. This examination will be documented utilizing the Unusual Occurrence Report form DOC 2514.

#### **405.11 REPORTING OF USE OF FORCE**

In all cases the reporting of Uses of Force MUST be accomplished as soon as practical after the incident and before leaving the institution or going off duty. Any Use of Force will be reported to the shift supervisors who will ensure, once order has been restored and the involved inmate(s) are placed in secure housing, that written reports from all staff involved are completed. This includes custody officers, institutional staff, medical staff, volunteers or any persons that witnessed the Use of Force.

1. These reports will be entered into the Nevada Offender Tracking Information System (NOTIS) for review by the appropriate supervisors.
  - A. All relevant and supporting documentation and information associated with the Use of Force will be contained within the NOTIS Incident Report (IR).
  - B. All relevant incident questions, inmate involvement questions, and staff involvement questions will be completed within NOTIS.
2. Verbal notification of the Use of Force will be made via the chain of command to the Warden. The Warden will notify the Deputy Director of Operations.
3. An email will be generated by the shift supervisor, notifying institutional/facility administration, the Deputy Director of Operations, and the Inspector General of the IR number and Use of Force for instances that involved, (the below referenced list includes but is not limited to the following uses of force that must be reported):
  - A. Discharge of a firearm for any reason other than training;
  - B. Any Use of Force that results in an injury to staff or an inmate;
  - C. Any Use of Force that results in an allegation or grievance claiming an injury;
  - D. Any complaint, grievance or indication of an unnecessary or excessive Use of Force; or
  - E. Planned Use of Force that results in any of the above.

#### **405.12 USE OF FORCE INCIDENT REVIEWS**

1. Any Use of Force suspected to be excessive or unnecessary will be immediately referred to and assigned to the Inspector General for investigation. In these circumstances the Use of Force Incident Review will not be completed.
2. Any use of less lethal force will result in a Use of Force Review panel convening within ten (10) days from the Use of Force. To ensure a fair and impartial review, the

review panel will be comprised of staff not directly involved in the incident to ensure a fair and impartial review.

3. At a minimum the review panel will consist of:
  - A. An Associate Warden from the institution involved.
  - B. An institutional Command Staff at the level of authority of a Correctional Lieutenant or above, from the institution involved.
4. The review panel will review all information, reports, all video footage, and any other pertinent information or document that is or will become available.
5. The review panel will review the actions of all staff members and inmate(s) involved in the Use of Force incident, including those actions leading up to the Use of Force, taking into account any NOTIS incident reports surrounding the time frame of the Use of Force, especially involving the staff member that used the force and the inmate that had the force used upon their person.
6. The review panel will conduct in person, recorded interviews of all staff and inmate(s) involved in the Use of Force. Should the panel, as part of the review, desire to question/interview an employee involved in the use of force, the panel will conduct all interviews in accordance with department disciplinary procedures, as well as relevant provisions of NRS chapter 284 and 289. The panel does not have the authority to recommend discipline.
7. The review panel will evaluate the Use of Force incident and prepare a written report on its evaluation and determination to the Warden, the Deputy Director of Operations and Inspector General within ten (10) days from commencement of the Use of Force review, to include:
  - A. Was the Use of Force justified;
  - B. Was the Use of Force within policy, procedures and training of the Department;
  - C. Could the Use of Force have been prevented;
  - D. Could this type of Use of Force be prevented in the future;
  - E. Any referral for investigation for possible disciplinary action for staff member(s) involved in the Use of Force.
  - F. Any recommended corrective action for staff member(s) involved in the use of force.
  - G. Any recommendation for any staff member that acted with distinction in the Use of Force; and

- H. Any recommended changes or enhancements to policy, procedure, or training related to this Use of Force.

#### **405.13 SERIOUS USE OF FORCE INCIDENT REVIEWS**

1. Any Use of Force suspected to be excessive or unnecessary will be immediately referred to and assigned to the Inspector General for investigation. In these circumstances the Use of Force Incident Review will not be completed.
2. Any use of deadly force or less lethal force causing serious physical injury will result in convening a Serious Incident Review Panel within fifteen (15) days from the Use of Force. The review panel will be comprised of staff not directly involved in the incident to ensure a fair and impartial review.
3. At a minimum the review panel will consist of:
  - A. A Warden and/or an Associate Warden from an institution where the Use of Force did not occur;
  - B. An Investigator or Supervisory Investigator from the Inspector General's Office;
  - C. An institutional Command Staff at a level of authority of a Correctional Lieutenant or above, from an institution where the Use of Force did not occur.
4. The review panel will review all information, reports, all video footage, and any other pertinent information or document that is or will become available.
5. The review panel will review the actions of all staff members and inmate(s) involved in the Use of Force incident, to include those actions leading up to the use of force. The panel will also take into account any NOTIS incident reports surrounding the time frame of the Use of Force, especially involving the staff member that used the force and the inmate that had the force used upon their person.
6. The review panel will conduct in person, recorded interviews of all staff and inmate(s) involved in the Use of Force. When the panel, questions/interviews a staff member involved in the Use of Force the panel will conduct all interviews in accordance with department disciplinary procedures, as well as relevant provisions of NRS chapter 284 and 289. The panel does not have the authority to recommend discipline.
  - A. The written notice will provide the names of the assigned staff members to the review panel;
  - B. The written notice will identify the NOTIS Incident Number for the Use of Force incident;



- C. The written notice will identify the date, time and location of the interview;
  - D. The review panel will ask questions and gather information related to the specific Use of Force, the inmate(s) involvement and any historical information related to the interaction between the involved staff member and the involved inmate(s);
  - E. The written notice will provide the Notice of Confidentiality applied to the Use of Force Review.
7. The review panel will evaluate the Use of Force incident and prepare a written report on its evaluation and determination to the Director and the Deputy Director of Operations within thirty (30) days from commencement of the Use of Force review, to include:
- A. Was the Use of Force justified;
  - B. Was the Use of Force within policy, procedures and training of the Department;
  - C. Could the Use of Force have been prevented;
  - D. Could this type of Use of Force be prevented in the future;
  - E. Any referral for investigation for possible disciplinary action for staff member(s) involved in the Use of Force.
  - F. Any referral for investigation for possible corrective action for staff member(s) involved in the Use of Force.
  - G. Any recommendation for any staff member that acted with distinction in the Use of Force; and
  - H. Any recommended changes or enhancements to policy, procedure, or training related to this Use of Force.
8. Any recommended corrective action being applied to a staff member will be reported to the appointing authority via a memorandum that outlines the reason for the corrective action. A corrective action is not deemed a discipline.
9. Any findings that recommend disciplinary action be taken against a staff member will be referred to the Inspector General and Director for their review and appropriate response; response may include, but not be limited to official assignment for Administrative Investigation.
10. Any findings that recommend a change or enhancement to a policy, procedure, or training will be sent to the Director and Deputy Director of Operations.

11. Any findings that identifies that a staff member acted with distinction in the Use of Force will be sent to the Director and Deputy Director of Operations.
12. The review panel report and its contents are confidential and not subject to dissemination except by order of the Director, Inspector General, or lawful court order.
13. The Inspector General's Office will track all Use of Force reviews to insure timely completeness. The Inspector General's Office will prepare and submit to the Director's executive team, an annual report that details the number of Uses of Force that were reviewed and the total of the outcomes for each of the categories reviewed

#### **405.14 OFFICER INVOLVED SHOOTING INVESTIGATIONS**

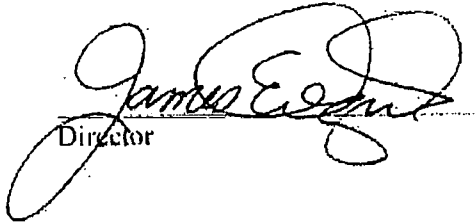
1. All uses of force that involve the discharge of a firearm, excluding blank rounds, will result in an Officer Involved Shooting (OIS) investigation being done by an investigator(s) of the Inspector General's Office (IG) unless;
  - A. A death occurs as the result of the discharged round, at which time an outside law enforcement investigating body will be called in for response and investigation;
  - B. Director or Inspector General determines that the matter is or may be a conflict of interest to the Department.
2. The processes, procedures and format used in conjunction with an OIS investigation and the subsequent report are contained within the confidential I.G. manual.
3. All OIS investigations are confidential and not subject to dissemination without the authorization of the Director, Inspector General, and Board of Prison Commissioner's or in conjunction with lawfully issued court order.
4. The OIS report will be e-mailed to the Director, Deputy Director of Operations and the Inspector General/designee. Once approved, this report will be made available to the Use of Force Review Panels.

## APPLICABILITY

1. An Operational Procedure is required within thirty (30) days of this regulation's effective date.
2. This AR requires an audit.

## REFERENCES

ACA Standards: 4-4206, 4-4204, 4-4203, 4-4202, 4-4201, and 4-4191.

  
Director

9/13/16  
Date

# EXHIBIT E

# EXHIBIT E

*Respondent's* EXHIBIT # E

## ADMINISTRATIVE REGULATIONS ACKNOWLEDGEMENT

The following 300 Series Administrative Regulations outline staff conduct, rules, and regulations. By signature below I acknowledge it is my responsibility to read and familiarize myself with these regulations, as well as their periodic updates. I also acknowledge these regulations are available for review on the department's website at [www.doc.nv.gov](http://www.doc.nv.gov), and in Department administrative offices. Any corresponding Operational Procedures are located on the Department's Stewart Shared Drive. Should I be unable to access these regulations, I will notify the Department's Personnel Office.

A.R. 300	Recruitment and Hiring
A.R. 301	Shift Bidding
A.R. 306	Employee Formal Grievance Procedure
A.R. 308	Department Staff and Applicant Records
A.R. 310	Work Performance Standards
A.R. 311	Performance Evaluations for Classified Employees
A.R. 313	Dismissal of Probationary Employees/Trial Period Employees
A.R. 314	Employee Physical Examinations & Health Requirements
A.R. 316	Employee Transfers
A.R. 317	Employee Award and Commendation Procedure
A.R. 318	Employee Performance Cards
A.R. 319	Workplace Safety
A.R. 320	Salary Administration
A.R. 322	Types of Leave and Procedure
A.R. 324	Employee Management Relations
A.R. 325	Security Staffing
A.R. 328	Correctional Uniform Allowance
A.R. 329	Employee Work-Related Illness/Injury or Occupational Disease
A.R. 330	Employee Resignation and Reinstatement Procedure
A.R. 331	Employee Liability
A.R. 332	Employee Responsibility-Reporting
A.R. 337	Staff Requirements for Home Address and Telephone
A.R. 338	Former Employees Access to Department Property
A.R. 339	Code of Ethics; Employee Conduct; Prohibitions and Penalties
A.R. 340	Employee Complaint Reporting and Investigation
A.R. 341	Employee Complaint and Performance Adjudication
A.R. 345	Employee-Inmates, Ex-Inmates, Parolees and Probationers Relationships
A.R. 346	Nepotism
A.R. 347	Political Activities by Employees
A.R. 348	Alcohol and Drug Testing Requirements – Commercial Driver's License
A.R. 349	Employee/Applicant Alcohol and Drug Testing
A.R. 350	Employee Grooming and Dress Standards
A.R. 352	Identification Cards
A.R. 355	Employee Secondary Employment
A.R. 357	Service of Actions Against Department Accepting Service
A.R. 358	Request for Basic Peace Officer Certification

Signature

Date

Print Name

# EXHIBIT F

# EXHIBIT F

Respondents EXHIBIT # E



**DIVISION OF HUMAN RESOURCE  
MANAGEMENT  
EMPLOYEE WORK PERFORMANCE  
STANDARDS FORM**

Supervisors are responsible for establishing the initial standards, but standards must be reviewed annually and amended when appropriate. The employee must be given the opportunity to provide comment when the standards are revised (NAC 284.468).

Employee Name:	Last: <b>NAVARRETE</b>	First: <b>JOSÉ</b>	MI: <b>M</b>	Employee ID #: <b>41181</b>
Class Title:	<b>Senior Correctional Officer (13.312)</b>			Date Standards Est/Rev:

Department/Division:	<b>NDOC</b>			
Agency # (3 digits):	<b>440</b>	Home Org # (4 digits):	<b>3738</b>	Position Control #: <b>767</b>

I have read and understand the work performance standards for this position. I understand these standards may be modified after discussion with my immediate supervisor and with the concurrence of the appointing authority.

Employee Signature:		Date:	<b>11/18/14</b>
Supervisor Title & Signature:		Date:	<b>11-19-14</b>
Reviewing Officer Title & Signature:		Date:	<b>19 Nov. 2014</b>
Appointing Authority Title & Signature:		Date:	<b>11-24-14</b>

Job Elements (Defined as principal assignments, goals, responsibilities and/or related factors.)	*Weighted Value	Performance Standards
<b>Job Element #1: Custodial Responsibilities</b> <ul style="list-style-type: none"><li>Comply with Administrative Regulations and DOC procedures for control on inmate activities.</li><li>Assure proper supervision of inmates.</li><li>Ensure safety for staff and inmate population.</li><li>Supervise inmate population during meals.</li><li>Maintain alertness/awareness of problems with the security of the institution.</li><li>Enforce inmate discipline.</li><li>Supervise inmate work assignments.</li><li>Conduct institutional searches for contraband.</li><li>Know emergency procedures and evacuation plans.</li><li>Counsel inmates concerning attitude and conduct.</li><li>Supervise proper inmate dress code.</li><li>Supervise inmate participation in recreational activities.</li><li>Maintain proper procedures for the mechanical operation of equipment.</li><li>Submit written documentation of any deficiencies.</li><li>Supervise inmate use of authorized personal and DOC property.</li></ul>		<p>Complies with ARs and DOC procedures for control of inmate activities - no more than two minor violations in a 12-month period.</p> <p>Proper inmate supervision to ensure safety of staff and inmates including supervision of inmates during meals, inmate work assignments and recreational activities and inmate use of personal/DOC property - no more than two minor discrepancies in a 12-month period.</p> <p>Alert to problems with security issues and reports any problems to supervisors immediately - no exception.</p> <p>Enforces inmate discipline, inmate dress code, and counsels inmates in accordance with DOC procedures and Code of Penal Discipline - no more than two minor violations in a 12-month period.</p> <p>Conducts searches for contraband per DOC procedures - no more than two minor discrepancies in a 12-month period.</p> <p>Knows emergency and evacuation plans and reads and signs post orders at each assigned position at least yearly and upon any changes.</p> <p>Ensures proper operation of equipment and submits written reports of any discrepancies - no more than one minor violation in a 12-month period.</p>

**NDOC 0196**

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<b>Job Element #2: Training</b>		
<ul style="list-style-type: none"> <li>Serves as lead worker for subordinate officers and provides on the job training to subordinate officers on duties of assigned areas.</li> </ul>		Oversees and provides on the job training to subordinate staff and reports problems to supervisor through the Chain of Command - no more than one minor violation in a 3-month period.
<b>Job Element #3: Legal Responsibilities</b>		
<ul style="list-style-type: none"> <li>Fill out and maintain log books, i.e., Shower, Yard, etc.</li> <li>Process legal mail.</li> <li>Report and document all violations.</li> <li>Recommend any ideas on improving institutional procedures.</li> <li>Direct correspondence to immediate supervisor.</li> </ul>		<p>Maintain accurate information in log books documenting required activities - no more than two minor violations in a 12-month period.</p> <p>Process legal mail in accordance with DOC procedures and reports and documents all violations - no more than two minor discrepancies in a 12-month period.</p> <p>Recommends ideas for procedural changes through immediate supervisor - no more than discrepancies in a 12-month period.</p>
<b>Job Element #4: Security Equipment</b>		
<ul style="list-style-type: none"> <li>Maintain proficient in the use of firearms.</li> <li>Maintain equipment for use in emergencies.</li> <li>Report any deficiencies noted.</li> <li>Proficient in the use, care and maintenance of security equipment, i.e., radios, telephones, etc.</li> <li>Proficient in the use of control equipment, i.e., Tasers, Chemical agents and their application.</li> </ul>		<p>Maintain successful firearms qualifications - no exceptions.</p> <p>Maintains emergency equipment and is proficient in the use care and maintenance of security equipment reporting any discrepancies - no exceptions.</p> <p>Proficient in proper use control of special weapons as assigned - no exceptions.</p>
<b>Job Element #5: Key Control</b>		
<ul style="list-style-type: none"> <li>Have proficient knowledge of A.R.'s, I.P.'s and department policies and procedures concerning key control.</li> <li>Be proficient in the use, storage and exchange of institutional/personal keys.</li> <li>Be proficient in the use of door and key control.</li> <li>Report damaged or lost keys.</li> </ul>		<p>Knowledgeable in ARs, IPs and DOC policies for key control reviewing any changes in such.</p> <p>Proficient in use, storage and exchange of institutional/personal keys - no exceptions.</p> <p>Proficient in door and key control - no exceptions.</p> <p>Reports damaged or lost keys to supervisor immediately - no exceptions.</p>
<b>Job Element #6: Tool Control</b>		
<ul style="list-style-type: none"> <li>Have a proficient knowledge of the tool control A.R. and I.P.</li> <li>Report any lost or damaged tools.</li> </ul>		<p>Knowledgeable in ARs and IPs for tool control reviewing any changes in such.</p> <p>Reports lost or damaged tools immediately to supervisor - no exceptions.</p>
<b>Job Element #7: Vehicles</b>		
<ul style="list-style-type: none"> <li>Operate vehicles in a safe, legal and proficient manner.</li> <li>Maintain travel logs.</li> <li>Provide vehicle maintenance.</li> </ul>		<p>Operates vehicles in a safe, legal and proficient manner - no exceptions.</p> <p>Maintains vehicle logs - no more than two minor infractions in a 12-month period.</p> <p>Reports maintenance needs to proper source.</p>



<b>Job Element #8: Count</b>		
<ul style="list-style-type: none"> <li>Oversee and conduct all institutional counts.</li> <li>Oversee and conduct negative counts, ensuring accurate completion.</li> <li>Oversee and conduct picture counts and emergency counts.</li> </ul>		<p>Oversees and conducts institutional count ensuring that a "living, breathing" inmate is observed - no exceptions.</p> <p>Oversees and conducts negative counts ensuring accurate completion. Oversees and conducts picture counts and emergency counts as needed - one minor in a 12-month period.</p> <p>Count errors which are corrected to 100% are permitted with up to four minor miscounts in a 12-month period.</p>
<b>Job Element #9: Appearance</b>		
<ul style="list-style-type: none"> <li>Maintain uniform and appearance to standard.</li> </ul>		<p>Maintains clean, neat appearance and appropriate uniform standards setting the example for subordinate staff - no more than two minor violations in a 12-month period.</p>
<b>Job Element #10: Work Ethic</b>		
<ul style="list-style-type: none"> <li>Ability to prioritize tasks, estimate time frames, meet deadlines, plan and use available resources and coordinate work assignments with others.</li> </ul>		<p>Appropriately prioritizes tasks and work assignments - no more than two minor discrepancies in a 12-month period.</p>
<b>Job Element #11: Customer Service and Communication</b>		
<ul style="list-style-type: none"> <li>Provide quality and quantity of information and service to co-workers and external customers.</li> <li>Answer telephones; greet customers; answer general questions; refer callers/visitors to appropriate personnel.</li> <li>Maintain and project an approachable, open-minded attitude and respect confidentiality to ensure open, two-way communication.</li> </ul>		<p>Communicates information to fellow staff and other employees clearly and concisely as needed - no more than two minor infractions in a 12-month period.</p> <p>Maintains professional demeanor during telephone conversations with both staff and the general public - no more than two minor infractions in a 12-month period.</p> <p>Is approachable, open and respectful to encourage two-way communication - no more than two discrepancies in a 12-month period.</p>
<b>Job Element #12: Safety</b>		
<ul style="list-style-type: none"> <li>Observe safe practices at all times.</li> <li>Observe terms of safety of self, others, and care of Department property, equipment, and vehicles.</li> <li>Follow Department accident reporting procedures.</li> </ul>		<p>Maintains safe practices in assigned duties and in the care of Departmental equipment - no more than two minor violations in a 12-month period.</p> <p>All accidents will be reported per procedure - no exception.</p>
<b>Job Element #13: Professionalism</b>		
<ul style="list-style-type: none"> <li>Display a professional demeanor at all times when interacting with staff and inmates.</li> <li>Be courteous and considerate.</li> <li>Avoid critical and argumentative statements.</li> <li>Observe the Chain-of-Command in all interactions and correspondence.</li> <li>Cooperate with and maintain a good relationship with operations and program staff.</li> </ul>		<p>Maintains professional demeanor with staff and inmates in compliance with DOC Code of Ethics - no more than two minor violations in a 12-month period.</p> <p>Is courteous and considerate not using critical or argumentative statements - no exception.</p> <p>Follows the Chain-of-Command - no more than two minor violations in a 12-month period.</p> <p>Cooperates with operations and program staff - no more than two minor negative interactions in a 12-month period.</p>

\*If a weighted value is not designated, each job element has an equal weight.

Distribution: Original to Agency; Copy to Employee; Copy to Supervisor

NPD-14 Est. 1/03  
**ND0C 0198** Revised 3/12

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JA 1198

# EXHIBIT G

# EXHIBIT G

*Respondents* EXHIBIT # G

**S. B. 116—Committee on Education, Health and Welfare and State Institutions, Jan. 21.**

**Summary—Establishes the Department of Prisons. (BDR 16-198) Fiscal Note: Local Government Impact: No. State or Industrial Insurance Impact: Yes.**

**Jan. 21—Read first time. Referred to Committee on Education, Health and Welfare and State Institutions. To printer.**

**Jan. 24—From printer. To committee. 1/26; 2/2; 2/4**

**Feb. 9—From committee: Amend, and do pass as amended.**

**Feb. 10—Read second time. Amended. To printer.**

**Feb. 11—From printer. To engrossment. Engrossed. First reprint.**

**Feb. 14—Taken from General File. Re-referred to Committee on Finance. To committee. 2/28 am**

**Feb. 28—From committee: Re-refer to Committee on Judiciary. Re-referred to Committee on Judiciary. To committee. 3/15; 3/24 am**

**Mar. 31—From committee: Amend, and do pass as amended.**

**Apr. 1—Read third time. Amended. To printer.**

**Apr. 4—From printer. To re-engrossment. Re-engrossed. Second reprint.**

**Apr. 5—Read third time. Passed, as amended. Title approved, as amended. To Assembly.**

**Apr. 6—In Assembly. Read first time. Referred to Committee on Government Affairs. To committee. 4/11**

**Apr. 13—From committee: Re-refer to Committee on Judiciary. Re-referred to Committee on Judiciary. To committee. 4/20; 4/29**

**Apr. 29—From committee: Amend, and do pass as amended.**

**Apr. 30—Read second time. Amended. To printer.**

**May 2—From printer. To re-engrossment. Re-engrossed. Third reprint. Placed on General File. Read third time. Passed, as amended. Title approved. To Senate. 5/3 am**

**May 3—In Senate. Assembly amendment concurred in. To enrollment.**

**May 5—Enrolled and delivered to Governor.**

**May 8—Approved by the Governor. Chapter 430.**

**Subsections 2 and 3 of Section 100 effective 12:01 a.m., July 1, 1977. Balance of act effective July 1, 1977. Section 64 amended in accordance with the provisions of Assembly Bill No. 355.**

1977

S.B. 116 (chapter 430) reorganizes the state prison system into a Department of Prisons. In addition, much of the statutory language governing prison operations, dating in large part from 1873, has been amended or repealed. The prison system is still under the control of the constitutional board of prison commissioners composed of the governor, secretary of state and attorney general. The present warden is redesignated as director of the department.

**S. B. 116**

**SENATE BILL NO. 116—COMMITTEE ON EDUCATION, HEALTH  
AND WELFARE AND STATE INSTITUTIONS**

JANUARY 21, 1977

Referred to Committee on Education, Health and Welfare  
and State Institutions

SUMMARY—Establishes the department of prisons. (BDR 16-198)  
FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to corrections; establishing the department of prisons; providing for its organization, administration, powers, duties and functions; providing for the transportation, transfer, custody, care, education and employment of offenders; providing for credits on the term of imprisonment; providing for the release of offenders; providing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- SECTION 1. Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 51, inclusive, of this act.
- SEC. 2. *As used in this chapter, unless the context otherwise requires, the terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*
- SEC. 3. "Board" means the board of state prison commissioners as defined by section 21 of article 5 of the Nevada constitution.
- SEC. 4. "Classification" means the process of individual case evaluation to determine the custody and program needs of the individual offender.
- SEC. 5. "Custody" means the level of security restrictions imposed on an offender by a classification committee.
- SEC. 6. "Department" means the department of prisons.
- SEC. 7. "Director" means the director of the department of prisons.
- SEC. 8. "Institution" means a prison, community correctional center, or other facility operated by the department for the custody, care and training of offenders.
- SEC. 9. "Offender" means any person convicted of a felony under the laws of this state and sentenced to imprisonment in the state prison.
- SEC. 10. "Superintendent" means the administrative officer in charge of an institution.
- SEC. 11. 1. The department of prisons is hereby created.  
2. The head of the department is the board of state prison commissioners.

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3. The governor is the president of the board. The secretary of state is the secretary of the board.

4. Any two members of the board constitute a quorum for the transaction of business.

5. The secretary shall keep full and correct records of all the transactions and proceedings of the board.

6. The board has full control of all grounds, buildings, labor, and property of the department, and shall:

1. Purchase, or cause to be purchased, all commissary supplies, materials and tools necessary for any lawful purpose carried on at any institution of the department.

2. Sell all manufactured articles and collect the money for their sale.

3. Contract with, tax-supported, nonprofit government agencies for any labor of offenders and collect money therefor. All state agencies shall cooperate with the department in carrying out the provisions of this subsection to the extent consistent with their other lawful duties.

4. Regulate the number of officers and employees of the department.

5. Prescribe regulations for carrying on the business of the board and the department.

SEC. 13. 1. The chief administrative and fiscal officer of the department is the director.

2. The director:

(a) Shall be appointed by the governor.

(b) Is responsible to the board.

(c) Shall be selected with special reference to his training, experience and aptitude in the field of corrections.

(d) Is entitled to receive an annual salary in an amount fixed by law.

(e) Shall not engage in any other gainful employment or occupation.

SEC. 14. The director shall:

1. Administer the department under the direction of the board.

2. Supervise the administration of all institutions of the department.

3. Receive, retain and release in accordance with law offenders sentenced to imprisonment in the state prison.

4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his jurisdiction.

5. Establish regulations with the approval of the board and enforce all laws governing the administration of the department and the custody, care and training of offenders.

6. Take proper measures to protect the health and safety of the staff and inmates of the institutions of the department.

7. Cause to be placed from time to time in conspicuous places about each institution copies of laws and regulations relating to visits and correspondence between offenders and others.

8. Provide for the holding of religious services in the institutions and make available to the inmates copies of appropriate religious materials.

SEC. 15. The director may, with the approval of the board, enter into agreements with other governmental agencies and with private organizations to carry out the purposes of this chapter.

SEC. 16. 1. The director shall appoint, with the approval of the

board, a deputy director, who shall be in the unclassified service of the state and is entitled to receive an annual salary in an amount fixed by law.

2. During any absence of the director, the deputy director is acting director of the department without increase in salary.

3. The deputy director shall carry out such administrative duties as may be assigned to him by the director and shall not engage in any other gainful employment or occupation.

SEC. 17. 1. The director shall appoint a superintendent for each institution of the department.

2. Each superintendent shall be in the classified service of the state except for purposes of retention and is entitled to receive an annual salary in an amount fixed by law.

3. Each superintendent is responsible to the director for the administration of his institution, including the execution of all policies and the enforcement of all regulations of the department pertaining to the custody, care and training of offenders under his jurisdiction.

SEC. 18. 1. The superintendent, deputy superintendent, correctional officers and other employees of an institution so designated by the director have the powers and privileges of peace officers when performing duties prescribed by the director.

2. For the purposes of subsection 1, the duties which may be prescribed by the director include, but are not limited to, pursuit and return of escaped offenders, transportation and escort of offenders and the general exercise of control over offenders within or outside the confines of the institution.

SEC. 19. 1. If the director finds that it is necessary or desirable that any officer or employee reside at an institution, perquisites granted to the officer or employee or charges for services rendered to him shall be at the discretion of the board.

2. The director shall notify the legislature at each regular session of the existing charges and perquisites.

SEC. 20. 1. The prison residence fund is hereby created as a special revenue fund.

2. The prison residence fund consists of all receipts of rents charged for occupancy of prison residences.

3. Subject to the approval of the board, the director may expend the money in the prison residence fund for the purchase of materials and equipment, but not for furniture or furnishings, to improve existing prison residences and for the construction of new residences by prison labor.

SEC. 21. 1. The prison revolving account in the sum of \$1,500 is hereby created, and may be used for the payment of small prison bills and bills requiring immediate payment, and for no other purposes.

2. The director may deposit the prison revolving account in one or more banks of reputable standing.

3. Payments made from the prison revolving account shall be promptly reimbursed from appropriated money of the department on claims as other claims against the state are paid.

SEC. 22. 1. The prison warehouse fund is hereby created as an intra-governmental service fund. The director shall administer the fund.

2. Purchases for the use of the department shall be made from the fund, and as each item purchased is distributed to an institution of the department, its cost shall be charged to the budget of that institution and credited to the fund.

3. Claims against the fund, approved by the director, shall be paid as other claims against the state are paid.

SEC. 23. 1. The prisoners' store fund is hereby created as a trust fund. All money received for the benefit of offenders through contributions, percentages from sales of goods manufactured by the offenders, and from other sources not otherwise required to be deposited in another fund, shall be deposited in the prisoners' store fund.

2. The director shall:

(a) Deposit the prisoners' store fund in one or more banks of reputable standing;

(b) Keep, or cause to be kept, a full and accurate account of the fund; and

(c) Submit reports to the board relative to money in the fund as may be required from time to time.

3. Money in the prisoners' store fund shall be expended for the welfare and benefit of all offenders.

SEC. 24. 1. Any money received from the operation of any honor camp established under this chapter or from the assignment of any honor camp crew, to the extent that such money is not used for salaries, overhead or operating expenses of any such camp or crew, shall be placed in the division of forestry account.

2. The state forester firewarden, as executive head of the division of forestry of the state department of conservation and natural resources, may:

(a) Expend the moneys received pursuant to subsection 1 for:  
(1) The renovation, repair or improvement of buildings and other facilities for any honor camp.

(2) The acquisition of special clothing, tools and equipment and payment of expenses directly related to work projects performed by honor camp crews such as, but not limited to, the costs of utilities and operation of equipment.

(b) Direct all activities in connection with any such renovation, repair or improvement of buildings and other facilities for any honor camp or any honor camp work project.

SEC. 25. The director may accept money and valuables belonging to offenders for safekeeping pending their releases, and shall deposit such money in the prisoners' personal property fund, which is a trust fund. He shall keep, or cause to be kept, a full and accurate account of such money, and valuables, and shall submit reports to the board relating to such money and valuables as may be required from time to time.

SEC. 26. All books and papers kept by or under the direction of the secretary of the board or the director shall:

1. At all times, on all legal days, be open to the inspection of the members of the board, all other state officers, members of the legislature, and the sheriffs of the several counties of this state.

2. At the expiration of their term of office, be delivered to their successors.

SEC. 27. 1. Upon notification by the county clerk of any county in this state that a person is being held under sentence of imprisonment in the state prison, the director shall immediately provide for the transportation of the offender from the place of confinement to an appropriate institution.

2. The expense of such transportation is a charge against the department and shall be paid upon approval by the board as other claims against the state are paid.

3. The reasonable expenses of maintaining every person sentenced to imprisonment in the state prison, after 5 days' notice to the director, is a charge against the department.

4. The officer in charge of transporting an offender is entitled to receive the transportation and subsistence allowance authorized by law for state employees.

5. In all cases where an appeal is sustained by the supreme court, further transportation of the offender is at the expense of the county in which the offender was convicted and at the same rate as provided in subsection 4.

SEC. 28. The officer in charge shall transport at the same time all persons awaiting transportation, and the board shall not allow any extra expense incurred by the making of unnecessary trips in transporting separately persons who might be transferred at the same time.

SEC. 29. An officer of the department may transport an offender temporarily to or through any state which adjoins the State of Nevada if:

1. The offender will perform general labor in connection with forestry projects and will be directly returned to the State of Nevada after completion of the general labor; or

2. Some part of Nevada is threatened by fire or other natural disaster and the threat emanates from an adjoining state.

SEC. 30. 1. The director may transfer an offender:

(a) From one institution to another within the department; or

(b) To other governmental agencies,

in accordance with classification evaluations and the requirements of treatment, training, security and custody of the offender.

2. The prison sentence of an offender continues uninterrupted while he is at the facility to which he has been transferred.

SEC. 31. The department may, with the consent of the superintendent of the Nevada youth training center or the superintendent of the Nevada girls training center, transfer to the Nevada youth training center or the Nevada girls training center any minor persons who are inmates of an institution of the department.

SEC. 32. At the request of a county sheriff or the chief of police of a city, the director may authorize the transfer of a person detained in a local facility to an institution of the department for safekeeping. The director shall determine the cost of the custody and care of that person which shall be borne by the local government affected.

SEC. 33. 1. The director may arrange for the transfer of an offender to other appropriate governmental agencies for psychiatric observation,

evaluation or stabilization pursuant to an agreement with the agency for such transfers. When the head of the facility to which the offender has been transferred determines that the offender has recovered from the condition which caused the transfer, the director shall provide for its return to the department.

2. The director may initiate proceedings for civil commitment of an offender in the manner provided by law in cases of mental illness or retardation.

SEC. 34. An offender may be taken outside an institution, under appropriate precautions to prevent his escape, when necessary for medical evaluation or treatment, as determined by the director.

SEC. 35. The director shall assign every person who is sentenced to imprisonment in the state prison to an appropriate institution of the department. The assignment shall be based on an evaluation of the offender's records, particular needs and custody requirements.

SEC. 36. The director shall:

1. Establish a system of classification and evaluation to insure the individualized custody, care and training of offenders under the department's jurisdiction.

2. Keep, or cause to be kept, records of all offenders wherein shall be recorded:

(a) The name, age, date of birth, race, sex, height, weight, complexion, color of eyes and hair, peculiarities of build or features.

(b) Place of birth (state, county or city, or country, province or city).

(c) Occupation, and whether the offender can read and write.

(d) Date of sentence, name of the judge passing sentence, county from which sentenced, the crime charged, date of incarceration, term of imprisonment, expiration date of minimum and maximum terms of imprisonment.

(e) Such other desirable or pertinent information as may be necessary.

3. Maintain a comprehensive record of the behavior of each offender reflecting his accomplishments and progress as well as charges of infractions of regulations, punishments imposed and medical services rendered.

SEC. 37. The director shall:

1. Adopt with the approval of the board such regulations as are necessary to:

(a) Maintain proper custody of an offender in accordance with his current classification.

(b) Prevent escapes and maintain good order and discipline.

2. Establish procedures by regulation for disposing of cases involving violations of law in institutions of the department.

3. Establish sanctions appropriate to the type and severity of such violations.

SEC. 38. Corporal punishment and inhumane treatment of offenders are prohibited.

SEC. 39. 1. Each offender in an institution of the department shall be provided a healthful diet and appropriate, sanitary housing.

2. The director with the approval of the board shall establish standards for personal hygiene of offenders and for the medical and dental services of each institution.

SEC. 40. The director shall:

1. Establish programs to provide medical, psychological, psychiatric and other appropriate forms of counseling to offenders under the jurisdiction of the department, in accordance with classification requirements.

2. Establish educational and vocational programs and training directed toward the eventual release of the offender to the community as a productive, law-abiding citizen.

SEC. 41. The director may, with the approval of the board, establish facilities which enable offenders to live in a community while obtaining regular employment, enrolling in academic courses, participating in vocational training programs, utilizing community resources in meeting their personal and family needs, and participating in whatever other approved programs may exist within the community.

SEC. 42. The director shall provide a facility for the detention and treatment of such persons committed to the custody of the administrator of the mental hygiene and mental retardation division of the department of human resources under NRS 178.425 as the administrator may deem proper to place in such facility if other secure facilities are not available to the mental hygiene and mental retardation division for this purpose.

SEC. 43. Superintendents may authorize visits and correspondence between offenders and appropriate friends, relatives, and others under regulations adopted by the director and approved by the board.

SEC. 44. 1. Every offender who was sentenced to an institution of the department on or before June 30, 1969, who has no serious infraction of the regulations of the institution, or laws of the state, recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, shall be allowed for his term a deduction of 2 months in each of the first 2 years, 4 months in each of the next 2 years, and 5 months in each of the remaining years of the term, and pro rata for any part of a year where the sentence is for more or less than a year.

2. The mode of reckoning credits shall be as shown in the following table:

#### SCHEDULE OF CREDITS

Number of years of sentence.	Good time granted.	Total good time made.	Time to be served if full time is made.
1st year	2 months	2 months	10 months
2nd year	2 months	4 months	1 year, 8 months
3rd year	4 months	8 months	2 years, 4 months
4th year	4 months	1 year	3 years
5th year	5 months	1 year, 5 months	3 years, 7 months
6th year	5 months	1 year, 10 months	4 years, 2 months
7th year	5 months	2 years, 3 months	4 years, 9 months
8th year	5 months	2 years, 8 months	5 years, 4 months
9th year	5 months	3 years, 1 month	5 years, 11 months
10th year	5 months	3 years, 6 months	6 years, 6 months

and so on through as many years as may be the term of the sentence.

3. In addition to the credits for good behavior provided for in subsection 1, the board may adopt regulations allowing credits for offenders



whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes.

4. Each offender is entitled to the deductions allowed by this section unless the board finds that for misconduct or other cause reported by the director he should not receive them.

SEC. 45. 1. Every offender who is sentenced to an institution of the department after June 30, 1969, who has no serious infraction of the regulations of the institution, or laws of the state, recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, shall be allowed for the period he is actually incarcerated under sentence a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years, and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit shall be recorded on a monthly basis as earned for actual time served.

2. The mode of reckoning credits shall be as shown in the following table:

#### SCHEDULE OF CREDITS

Number of years served.	Good time granted.	Total good time made.
1 year.....	2 months	2 months
2 years.....	2 months	4 months
3 years.....	4 months	8 months
4 years.....	4 months	1 year
5 years.....	5 months	1 year, 5 months
6 years.....	5 months	1 year, 10 months
7 years.....	5 months	2 years, 3 months
8 years.....	5 months	2 years, 8 months
9 years.....	5 months	3 years, 1 month
10 years.....	5 months	3 years, 6 months
and so on through as many years as may be the term of the sentence.		
The "total good time made" shall be deducted from the maximum term imposed by the sentence and shall apply to parole eligibility as provided by law.		

3. In addition to the credits for good behavior provided for in subsection 1, the board may adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes.

4. An offender allowed to go outside the institution on parole may earn the credits provided in this section after the effective date of his release upon parole.

5. Each offender is entitled to the deductions allowed by this section if he has satisfied the conditions of subsection 1 as determined by the director.

SEC. 46. 1. If any offender:

(a) Commits any assault upon his keeper or any foreman, officer, offender or other person, or otherwise endangers life;

(b) Is guilty of any flagrant disregard of the regulations of the department; or

(c) Commits any misdemeanor, gross misdemeanor or felony,

he forfeits all deductions of time earned by him before the commission of such offense, or forfeits such part of such deductions as to the state board of parole commissioners may seem just.

2. If any offender commits a serious violation of any of the regulations of the department, he may forfeit all or part of such deductions, in the discretion of the state board of parole commissioners.

3. A forfeiture shall be made only by the state board of parole commissioners after proof of the offense and notice to the offender. A forfeiture shall not be imposed when the state board of parole commissioners determines that an offender has violated a regulation without violence or intent. The decision of the state board of parole commissioners regarding a forfeiture is final.

4. The state board of parole commissioners may restore credits forfeited for such reasons as to it may seem proper.

SEC. 47. 1. The director shall make available appropriate employment opportunities and work experience for inmates based on the results of a classification evaluation. To the greatest extent possible, equipment, management practices and general procedures should approximate the normal conditions of employment in the community.

2. The department, through the director and with the approval of the board, may make contractual arrangements for the use of an offender's labor by other units of government or for purposes of training in actual employment when evidence is available that such employment will contribute to the process of preparing the offender for lawful and productive community living.

3. Offenders may be compensated at rates fixed by the director and approved by the board for work performed.

4. The department may grant the prisoner the privilege of leaving the institution during necessary and reasonable hours for the purposes set forth in subsections 1 and 2.

5. The director shall establish administrative and fiscal procedures to permit the use of approved regional or community institutions for the placement of offenders approved for the purposes set forth in subsections 1 and 2.

SEC. 48. The director, with the approval of the board, may allow offenders to participate in certain educational, civic and charitable programs in and deemed beneficial to the community in accordance with classification standards and appropriate security measures.

SEC. 49. Any offender participating in work or educational release programs or in any other classification assignment under the provisions of this chapter, other than parole:

1. Continues to be in the legal custody of the director during the offender's absence from an institution.

2. Is considered within the confines of the institution for these purposes, and is subject to all provisions of law pertaining to his confinement, regardless of the location of his assignment.

SEC. 50. 1. The director may grant temporary furloughs consistent with classification evaluations and requirements:

(a) To permit offenders to:

(1) Be interviewed by prospective employers;

- (2) Respond to family emergencies; or  
 (3) Participate in other approved activities.  
 (b) For such other purposes as may be deemed appropriate by the director with the approval of the board.
2. Furloughs:  
 (a) Are limited to the confines of the state.  
 (b) Shall not be granted to offenders:  
 (1) Sentenced to life imprisonment without the possibility of parole.  
 (2) Imprisoned for violations of chapter 201 of NRS who have not been certified by the designated board as eligible for parole.
3. The director shall notify appropriate law enforcement authorities in the affected county or city to anticipate the arrival of the offender within their jurisdiction and inform them of the date and time of the offender's arrival, the reason the furlough was granted, the time when the furlough expires and any other pertinent information which the director deems appropriate.
4. The director with the approval of the board shall adopt regulations for administering the provisions of this section and governing the conduct of offenders granted a furlough.
- SEC. 51. When an offender is released from an institution by expiration of his term of sentence, by pardon or by parole, the director:  
 1. May furnish him with a sum of money not to exceed \$50, the amount to be based upon the offender's economic need as determined by the director, which shall be paid out of the appropriate account within the state general fund for the use of the department as any other claim against the state is paid.
2. Shall give him notice of the provisions of NRS 202.360, forbidding ex-felons to possess or have custody of concealable weapons and the provisions of NRS 207.080 to 207.150, inclusive, relating to the registration and fingerprinting of convicted persons.
3. Shall require him to sign an acknowledgment of the notice required in subsection 2.
- SEC. 52. Chapter 213 of NRS is hereby amended by adding thereto the provisions set forth as sections 53 to 60, inclusive, of this act.
- SEC. 53. 1. The state board of parole commissioners, through the chief parole and probation officer, shall establish and administer a work release program under which a person sentenced to a term of imprisonment in a penal or correctional institution may be granted the privilege of leaving secure custody during necessary and reasonable hours to:  
 (a) Work in this state at gainful private employment that has been approved by the state board of parole commissioners for such purpose.  
 (b) Obtain in this state additional education, including but not limited to vocational, technical and general education.
2. The work release program may also include, under rules developed by the chief parole and probation officer and approved by the state board of parole commissioners, temporary leave for the purpose of seeking employment in this state.
3. The state board of parole commissioners is responsible for the quartering and supervision of prisoners enrolled in the work release program.

- SEC. 54. 1. The director of the department of prisons shall, by appropriate means of classification and selection, determine which of the offenders, during the last 6 months' confinement, are suitable for the work release program, excluding those sentenced to life imprisonment who are not eligible for parole and those imprisoned for violations of chapter 201 of NRS who have not been certified by the designated board as eligible for parole.
2. The director shall then submit to the state board of parole commissioners the names of those offenders he determines to be eligible for the work release program, and the board shall select from those names the offenders it considers to be suitable for the program.
3. Before work release privileges are granted to any offender so selected, the sentencing court shall be notified of the intent to take such action. If the court does not object within 10 judicial days of the notice, the state board of parole commissioners may proceed to enroll the offender in the work release program.
4. In enrolling an offender in the work release program, the state board of parole commissioners shall delegate full authority to the chief parole and probation officer to take all necessary action to enforce rules relating to the general procedures and objectives of the program.
- SEC. 55. 1. The chief parole and probation officer shall administer the work release program. In addition to the other duties assigned by the state board of parole commissioners, the chief parole and probation officer shall:
- (a) Locate employment for qualified applicants;  
 (b) Effect placement of offenders under the work release program; and  
 (c) Generally promote public understanding and acceptance of the work release program.
2. All state agencies shall cooperate with the state board of parole commissioners in carrying out this section to such extent as is consistent with their other lawful duties.
3. Subject to the approval of the state board of parole commissioners, the chief parole and probation officer shall adopt rules for administering the work release program.
- SEC. 56. 1. The salaries or wages of an offender employed pursuant to the work release program shall be disbursed in the following order:  
 (a) To pay the cost of quartering, feeding and clothing the offender.  
 (b) To allow the offender necessary travel expense to and from work and his other incidental expenses.  
 (c) To support the offender's dependents.  
 (d) To pay, either in full or ratably, the offenders' obligations which have been acknowledged by him in writing or which have been reduced to judgment.
2. Any balance of an offender's wages remaining after all disbursements have been made pursuant to subsection 1 shall be paid to the offender upon his release from custody.
- SEC. 57. 1. The state board of parole commissioners through the chief parole and probation officer may contract with the governing bodies of political subdivisions in this state for quartering in suitable local facilities of offenders enrolled in work release programs. Each such facility

1 must satisfy standards established by the state board of parole commis-  
2 sioners to assure secure custody of offenders quartered therein.

3 2. The state board of parole commissioners may not enroll any  
4 offender in the work release program unless it has been determined that  
5 suitable facilities for quartering the offender are available in the locality  
6 where the offender has employment or the offer of employment.

7 Sec. 58. 1. An offender enrolled in the work release program is not  
8 an agent, employee or servant of the department of prisons or the state  
9 board of parole commissioners of this state:

10 (a) While working in employment under the program or seeking such  
11 employment; or

12 (b) While going to such employment from the place where he is quar-  
13 tered or while returning therefrom.

14 2. An offender enrolled in the work release program is considered to  
15 be an offender in an institution of the department of prisons.

16 Sec. 59. 1. The chief parole and probation officer may immediately  
17 terminate any offender's enrollment in the work release program and  
18 transfer him to an institution of the department of prisons if, in his judg-  
19 ment, the best interests of the state or the offender require such action.

20 2. If an offender enrolled in the work release program is absent with-  
21 out a reason acceptable to the state board of parole commissioners from  
22 his place of employment or his designated quarter, such absence:

23 (a) Immediately terminates his enrollment in the work release program.

24 (b) Constitutes an escape from prison, and the offender shall be pun-  
25 ished as provided in NRS 212.090.

26 Sec. 60. 1. There is hereby created in the state treasury the pro-  
27 oner's work release revolving loan fund in the sum of \$2,500.

28 2. The fund shall be used to make loans to offenders to pay their  
29 expenses for food, quarters and clothing while participating in the work  
30 release program and provision shall be made for repayment.

31 3. To the extent that the total cash balance of the fund exceeds  
32 \$2,500 at the end of each fiscal year the excess cash shall revert to the  
33 state general fund.

34 Sec. 61. NRS 213.1095 is hereby amended to read as follows:

35 213.1095. The chief parole and probation officer shall:

36 1. Be responsible for and supervise the fiscal affairs and responsibil-  
37 ties of the department.

38 2. Present, in conjunction with the budget division of the department  
39 of administration, the biennial budget of the department to the legislature.

40 3. Establish, consolidate and abolish sections within the department.

41 4. Establish, consolidate and abolish districts within the state to which  
42 assistant parole and probation officers are assigned.

43 5. Appoint, in accordance with the provisions of chapter 284 of NRS,  
44 the necessary supervisory personnel and other assistants and employees as  
45 may be necessary for the efficient discharge of the responsibilities of the  
46 department.

47 6. Be responsible for such reports of investigation and supervision and  
48 other reports as may be requested by the board or courts.

49 7. Direct the work of all assistants and employees as may be assigned  
50 to him.

8. Formulate methods of investigation, supervision, record keeping  
and reporting.

9. Develop policies of parole and probation work, including the  
work release program, in the light of other acceptable and recognized  
correctional programs and conduct training courses for the staff.

10. Furnish or cause to be furnished to each person released under  
his supervision a written statement of the conditions of parole or pro-  
bation, instruct or cause to be instructed any parolee or probationer  
regarding the same, and advise or cause to be advised the board or the  
court of any violation of the conditions of parole and probation.

11. At the close of each biennium, submit to the governor and the  
board a report, with statistical and other data, of his work.

12. Perform such other duties as the board may prescribe. [and as  
provided in NRS 209.483 to 209.497, inclusive.]

13 Sec. 62. NRS 6.020 is hereby amended to read as follows:

14 6.020. 1. Upon satisfactory proof, made by affidavit or otherwise,  
the following-named persons, and no other, shall be exempt from service  
as grand or trial jurors:

15 (a) Any federal or state officer.

16 (b) Any judge, justice of the peace or attorney at law.

17 (c) Any county clerk, recorder, assessor, sheriff, deputy sheriff, con-  
stable, deputy constable or police officer.

18 (d) Any physician, dentist, graduate nurse or registered pharmacist.

19 (e) Any locomotive engineer, locomotive fireman, conductor, brake-  
man, switchman or engine foreman.

20 (f) Any mail carrier engaged in the actual carrying of the United  
States mail on a star route in a rural area.

21 (g) Any teacher, principal or superintendent actually engaged in  
teaching or in the supervision of teaching in the public schools of this  
state, and any member of the faculty of the University of Nevada System,  
shall be exempt from jury duty during the session of the public schools  
or university of this state in which he is employed. Nothing in this para-  
graph shall excuse or be construed to excuse any teacher, principal,  
superintendent or university faculty member from jury duty during school  
vacation, except when he is taking training in his professional work or  
in finishing his school reports and other matters incident thereto within  
1 month of the day of the closing of the school in which he is employed,  
or in preparation for the opening of school during the 2 weeks imme-  
diately preceding the opening of school.

22 (h) Members and officers of paid and volunteer fire departments and  
members of exempt firemen's associations, societies or organizations,  
as follows:

23 (1) One-half of all members of each regularly enrolled fire depart-  
ment in this state as specified by such department. This exemption shall  
not apply to any fire department having 50 or more regular paid person-  
nel.

24 (2) Any member of a volunteer fire department, association, society  
or organization in this state.  
This exemption shall not apply to more than 50 members as designated by  
such department, association, society or organization.

(i) Any officer or correctional officer employed by the [Nevada state prison.] *department of prisons.*

(j) Any member or employee of the legislature or the legislative counsel bureau while the legislature is in session.

2. All persons of the age of 65 years or over are exempt from serving as grand or trial jurors. Whenever it shall appear to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 65 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

Sec. 63. NRS 11.400 is hereby amended to read as follows:

11.400 1. Except as provided in subsection 2, an action for injury or death against a health care provider as defined in subsection 5 shall not be commenced more than 4 years after the date of injury or 2 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs first, for:

(a) Injury to or wrongful death of a person, based upon such health care provider's alleged professional negligence; [or]

(b) Injury to or wrongful death of a person for rendering professional services without consent; or

(c) Injury to or wrongful death of a person for error or omission in such health care provider's practice.

2. This time limitation is tolled for any period during which such health care provider has concealed any act, error or omission upon which such action is based and which is known or through the use of reasonable diligence should have been known to such health care provider.

3. For purposes of this section, the [warden of the Nevada state prison.] *director of the department of prisons* and the administrator of the mental hygiene and mental retardation division of the department of human resources shall be deemed the guardian of every person subject to their respective control who is under a legal disability and are responsible for exercising reasonable judgment in determining whether to initiate any cause of action arising under this section which any such legally disabled person may have against any health care provider under subsection 1. If the [warden.] *director* or administrator fails to take action on behalf of such legally disabled person within the prescribed period of limitation, the legally disabled person shall not be permitted to bring an action based on the same injury against any health care provider under subsection 1 upon the removal of his legal disability.

4. For purposes of this section, the parent, guardian or legal custodian of any minor child is responsible for exercising reasonable judgment in determining whether to initiate any cause of action which such minor child may have against any health care provider under subsection 1. If the parent, guardian or custodian fails to take any action on behalf of such child within the prescribed period of limitations, such child shall not be permitted to bring an action based on the same alleged injury against any health care provider under subsection 1 upon the removal of his disability, except that in the case of brain damage or birth defect the period of limitation is extended until the child attains 10 years of age.

5. As used in this section, "health care provider" means a physician or

surgeon, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, veterinarian or a licensed hospital as the employer of any such person.

Sec. 64. NRS 169.125 is hereby amended to read as follows:

169.125 "Peace officer" includes:

1. The bailiff of the supreme court and bailiffs of the district courts, justices' courts and municipal courts;

2. Sheriffs of counties and of metropolitan police departments and their deputies;

3. Constables;

4. Personnel of the Nevada highway patrol when exercising the police powers specified in NRS 481.150 and 481.180;

5. The inspector or field agents of the motor carrier division of the department of motor vehicles when exercising the police powers specified in NRS 481.049;

6. Members of, and all inspectors employed by the public service commission of Nevada when exercising those enforcement powers conferred by chapters 704 to 706, inclusive, of NRS;

7. Marshals and policemen of cities and towns;

8. Parole and probation officers;

9. Special investigators employed by the office of any district attorney or the attorney general;

10. Arson investigators for fire departments specially designated by the appointing authority;

11. Members of the University of Nevada System police department;

12. The state fire marshal and his deputies;

13. The brand inspectors of the state department of agriculture when exercising the enforcement powers conferred in chapter 565 of NRS;

14. Arson investigators for the state forester firewarden specially designated by the appointing authority;

15. The deputy [warden.] *director, superintendent, correctional officers* and other employees of the [Nevada state prison.] *department of prisons* when carrying out any duties prescribed by the [warden of the Nevada state prison.] *director of the department of prisons*;

16. Nevada state park system employees designated by the administrator of the Nevada state park system in the state department of conservation and natural resources when exercising police powers specified in NRS 407.065;

17. Security officers employed by the board of trustees of any school district;

18. The executive, supervisory and investigative personnel of the Nevada gaming commission and the state gaming control board when exercising the enforcement powers specified in NRS 463.140;

19. The director, division chiefs, investigators, agents and other sworn personnel of the department of law enforcement assistance;

20. Field dealer inspectors of the vehicle compliance and enforcement section of the registration division of the department of motor vehicles when exercising the police powers specified in NRS 481.048;

21. Vehicle emission control officers of the vehicle emission control

section of the registration division of the department of motor vehicles when exercising the police powers specified in NRS 481.0481;  
 22. The personnel of the Nevada department of fish and game when exercising those enforcement powers conferred by Title 45 and chapter 488 of NRS; and

23. Security officers of the legislature of the State of Nevada when protecting the persons and property of the members of the legislature, staff of the legislature and personnel of the legislative counsel bureau.

SEC. 65. NRS 176.045 is hereby amended to read as follows:

176.045 1. Whenever a person convicted of a public offense in this state is under sentence of imprisonment pronounced by another jurisdiction, federal or state, whether or not the prior sentence is for the same offense, the court in imposing any sentence for the offense committed in this state may, in its discretion, provide that such sentence shall run either concurrently or consecutively with the prior sentence.

2. If the court provides that the sentence shall run concurrently, and the defendant is released by the other jurisdiction prior to the expiration of the sentence imposed in this state, the defendant shall be returned to the State of Nevada to serve out the balance of such sentence, unless the defendant is eligible for parole under the provisions of chapter 213 of NRS, and the board of parole commissioners directs that he [shall] be released on parole as provided in that chapter.

3. If the court makes an order pursuant to this section, the clerk of the court shall provide the [warden of the Nevada state prison] director of the department of prisons with a certified copy of judgment and notification of the place of out-of-state confinement.

4. If the court makes no order pursuant to this section, the sentence imposed in this state shall not begin until the expiration of all prior sentences imposed by other jurisdictions.

SEC. 66. NRS 176.107 is hereby amended to read as follows:

176.107 Whenever a sentence of imprisonment in the [Nevada] state prison is imposed, immediately after the rendition of judgment, the district attorney who prosecuted the cause shall transmit to the [warden of the Nevada state prison] director of the department of prisons a written statement of facts surrounding the commission of the offense, upon forms furnished by the [warden.] director.

SEC. 67. NRS 176.335 is hereby amended to read as follows:

176.335 1. If the judgment is for imprisonment in the state prison, the sheriff of the county must, on receipt of the triplicate certified copies thereof, immediately notify the [warden of the state prison.] director of the department of prisons and the [warden of the state prison] director shall, without delay, send some authorized person to the county where the prisoner is held for commitment to receive the prisoner.

2. When such authorized person presents to the sheriff holding the prisoner his order for the delivery of the prisoner, the sheriff shall deliver to such authorized person two of the certified copies of the judgment, and take from such person a receipt for the prisoner, and the sheriff shall make return upon his certified copy of such judgment, showing his proceedings thereunder, and both such copy with the return affixed

thereto and the receipt from the authorized person shall be filed with the county clerk.

3. The term of imprisonment designated in the judgment shall begin on the date of sentence of the prisoner by the court.

4. Upon the expiration of the term of imprisonment of the prisoner, or the termination thereof for any legal reason, the [warden] director of the department of prisons shall return one of his certified copies of the judgment to the county clerk of the county from whence it was issued, with a brief report of his proceedings thereunder endorsed thereon, and the endorsed copy shall be filed with the county clerk. The return shall show the cause of the termination of such imprisonment, whether by death, legal discharge or otherwise.

SEC. 68. NRS 176.345 is hereby amended to read as follows:

176.345 1. When a judgment of death has been pronounced, a certified copy of the entry thereof in the minutes of the court shall be forthwith executed and attested in triplicate by the clerk under the seal of the court. There shall be attached to the triplicate copies a warrant signed by the judge, attested by the clerk, under the seal of the court, which shall recite the fact of the conviction and judgment, and appoint a week within which the judgment is to be executed, which must not be less than 60 days nor more than 90 days from the time of judgment, and must direct the sheriff to deliver the prisoner to such authorized person as the [warden of the state prison shall designate.] director of the department of prisons designates to receive the prisoner, for execution, such person to be designated in the warrant.

2. The original of the triplicate copies of the judgment and warrant shall be filed in the office of the county clerk, and two of the triplicate copies shall be immediately delivered by the clerk to the sheriff of the county; one of the triplicate copies to be delivered by the sheriff, with the prisoner, to such authorized person as the [warden of the state prison shall designate.] director of the department of prisons designates, which shall be the warrant and authority of the [warden of the state prison] director for the imprisonment and execution of the prisoner, as therein provided and commanded, and the [warden] director shall return his certified copy of the judgment to the county clerk of the county whence it was issued; and the other triplicate copy of such judgment and warrant to be the warrant and authority of the sheriff to deliver the prisoner to such authorized person so designated by the [warden of the state prison.] director; the last-mentioned copy to be returned to the county clerk by the sheriff with his proceedings endorsed thereon.

SEC. 69. NRS 176.355 is hereby amended to read as follows:

176.355 1. The judgment of death shall be inflicted by the administration of lethal gas.

2. The execution shall take place within the limits of the state prison, wherein a suitable and efficient enclosure and proper means for the administration of such gas for that purpose shall be provided by the board of prison commissioners.

3. The [warden of the state prison] director of the department of prisons must be present, and must invite a competent physician, and not



less than six reputable citizens over the age of 21 years, to be present at the execution; but no other persons shall be present at the execution.

SEC. 70. NRS 176.365 is hereby amended to read as follows:  
176.365 After the execution, the [warden] director of the department of prisons must make a return upon the death warrant to the court by which the judgment was rendered, showing the time, place, mode and manner in which it was executed.

SEC. 71. NRS 176.425 is hereby amended to read as follows:  
176.425 1. If, after judgment of death, there is a good reason to believe that the defendant has become insane, the [warden of the state prison] director of the department of prisons to whom the convicted person has been delivered for execution may by a petition in writing, verified by a physician, petition a district judge of the district court of the county in which the state prison is situated, alleging the present insanity of such person, whereupon such judge shall:

(a) Fix a day for a hearing to determine whether the convicted person is insane;

(b) Appoint two physicians, at least one of whom shall be a psychiatrist, to examine the convicted person; and

(c) Give immediate notice of the hearing to the attorney general and to the district attorney of the county in which the conviction was had.

2. If [such judge shall determine] the judge determines that the hearing on and the determination of the sanity of the convicted person cannot be had before the date of the execution of such person, [such] the judge may stay the execution of the judgment of death pending the determination of the sanity of [such] the convicted person.

SEC. 72. NRS 176.435 is hereby amended to read as follows:

176.435 1. On the day fixed, the [warden of the state prison] director of the department of prisons shall bring the convicted person before the court, and the attorney general or his deputy shall attend the hearing. The district attorney of the county in which the conviction was had, and an attorney for the convicted person, may attend the hearing.

2. The court shall receive the report of the examining physicians and may require the production of other evidence. The attorney general or his deputy, the district attorney, and the attorney for the convicted person or such person if he is without counsel may introduce evidence and cross-examine any witness, including the examining physicians.

3. The court shall then make and enter its finding of sanity or insanity.

SEC. 73. NRS 176.445 is hereby amended to read as follows:  
176.445 If it is found by the court that the convicted person is sane, the [warden] director of the department of prisons must execute the judgment of death; but if [such] the judgment has been stayed, as provided in NRS 176.425, the judge shall cause a certified copy of his order staying the execution of the judgment, together with a certified copy of his finding that the convicted person is sane, to be immediately forwarded by the clerk of the court to the clerk of the district court of the county in which the conviction was had, who shall give notice thereof to the district attorney of such county. [whereupon proceedings shall] Proceedings shall then be instituted in the last-mentioned district court for the issuance of a

new warrant of execution of the judgment of death in the manner provided in NRS 176.495.

SEC. 74. NRS 176.455 is hereby amended to read as follows:

176.455 1. If it is found by the court that the convicted person is insane, the judge shall make and enter an order staying the execution of the judgment of death until the convicted person [shall have become] becomes sane, and shall therein [direct the warden of the state prison] order the director of the department of prisons to confine such person in a safe place of confinement until his reason is restored.

2. The clerk of the court shall serve or cause to be served three certified copies of the order, one on the [warden,] director, one on the governor, for the use of the state board of pardons commissioners, and one on the clerk of the district court of the county in which the conviction was had.

3. If the convicted person [shall thereafter become] thereafter becomes sane, notice of [such] this fact shall be given by the [warden] director to a judge of the court staying the execution of the judgment, and [such] the judge, upon being satisfied that such person is then sane, shall enter an order vacating the order staying the execution of the judgment.

4. The clerk of the court shall immediately serve or cause to be served three certified copies of such vacating order as follows: One on the [warden,] director, one on the governor, for the use of the state board of pardons commissioners, and one on the clerk of the district court of the county in which the conviction was had, who shall give notice thereof to the district attorney of such county, whereupon proceedings shall be instituted in the last-mentioned district court for the issuance of a new warrant of execution of the judgment of death in the manner provided in NRS 176.495.

SEC. 75. NRS 176.465 is hereby amended to read as follows:

176.465 1. If there is good reason to believe that a female against whom a judgment of death has been rendered is pregnant, the [warden of the state prison] director of the department of prisons to whom she has been delivered for execution shall petition a judge of the district court of the county in which the state prison is situated, in writing, alleging such pregnancy; whereupon such judge shall summon a jury of three physicians to inquire into the alleged pregnancy and fix a day for the hearing thereon; and give immediate notice thereof to the attorney general and to the district attorney of the county in which the conviction was had.

2. The provisions of NRS 176.425 and 176.435 [shall] apply to the proceedings upon the inquisition, [save and] except that three physicians shall be summoned. They shall certify in writing to the court their findings as to pregnancy.

SEC. 76. NRS 176.475 is hereby amended to read as follows:

176.475 1. If it is found by the court that the female is not pregnant, the [warden] director of the department of prisons must execute the judgment of death; but if a stay of execution has been granted pursuant to NRS 176.425 the procedure provided in NRS 176.445 [shall then be] is applicable.

2. If the female is found to be pregnant, the judge shall enter an

1 order staying the execution of the judgment of death, and shall thereon  
2 direct the warden of the state prison to order the director to confine such  
3 female in a safe place of confinement commensurate with her condition  
4 until further order of the court.

5 3. [Theater and when] When such female [shall be] is no longer  
6 pregnant, notice of [such] this fact shall be given by the [warden] direc-  
7 tor to a judge of the court staying the execution of the judgment. There-  
8 upon the judge, upon being satisfied that the pregnancy no longer exists,  
9 shall enter an order vacating the order staying the execution of the judge-  
10 ment and shall direct the clerk of such court to serve or cause to be served  
11 three certified copies of such order, one on the [warden], director, one on  
12 the governor, for the use of the state board of pardons commissioners, and  
13 one on the clerk of the district court of the county in which the conviction  
14 was had, who shall give notice thereof to the district attorney of such  
15 county, whereupon proceedings shall be instituted in the last-mentioned  
16 district court for the issuance of a new warrant of execution of the judge-  
17 ment in the manner provided in NRS 176.495.

18 Sec. 77. NRS 176.495 is hereby amended to read as follows:  
19 176.495 1. If for any reason a judgment of death has not been  
20 executed, and it remains in force, the court in which the conviction was  
21 had must, upon the application of the attorney general or the district  
22 attorney of the county in which the conviction was had, cause another  
23 warrant to be drawn, signed by the judge and attested by the clerk under  
24 the seal of the court, and delivered to the [warden of the state prison],  
25 director of the department of prisons.

26 2. The warrant must state the conviction and judgment and appoint  
27 a day on which the judgment is to be executed, which must be not less  
28 than 15 days nor more than 30 days after the date of the warrant.

29 3. Where sentence was imposed by a district court composed of three  
30 judges, the district judge before whom the confession or plea was made,  
31 or his successor in office, shall set the date of execution and sign the  
32 warrant.

33 Sec. 78. NRS 176.505 is hereby amended to read as follows:

34 176.505 When a remittitur showing the affirmation of a judgment of  
35 death has been filed with the clerk of the court from which the appeal  
36 therefrom has been taken, the court in which the conviction was had must  
37 inquire into the facts, and, if no legal reasons exist against the execution  
38 of the judgment, must make and enter an order that the [warden of  
39 the state prison], director of the department of prisons shall execute the  
40 judgment at a specified time, but the presence of the defendant in the  
41 court at the time the order of execution is made and entered, or the war-  
42 rant is issued, as in this section provided, [shall not be] is not required.

43 Sec. 79. NRS 178.524 is hereby amended to read as follows:

44 178.524 If the defendant surrenders himself to, is apprehended by  
45 or is in the custody of a peace officer in the State of Nevada or the [war-  
46 den of the Nevada state prison], director of the department of prisons,  
47 other than the officer to whose custody he was committed at the time of  
48 giving bail, the bail may make application to the court for the discharge  
49 of his bail bond, and shall then give to the court an amount in cash or a  
50 surety bond sufficient in amount to guarantee reimbursement of any costs

1 that may be expended in returning the defendant to the officer to whose  
2 custody the defendant was committed at the time of giving bail.

3 SEC. 80. NRS 178.630 is hereby amended to read as follows:

4 178.630 The [warden of the Nevada state prison], director of the  
5 department of prisons shall comply with the provisions of Articles III and  
6 IV of The Agreement on Detainers whenever he has in his custody a pris-  
7 oner who has detainers lodged against him from other jurisdictions which  
8 are parties to such agreement.

9 SEC. 81. NRS 179.223 is hereby amended to read as follows:

10 179.223 1. When the return to this state of a person charged with  
11 crime in this state is required, the district attorney shall present to the gov-  
12 ernor his written application for a requisition for the return of the person  
13 charged in which application shall be stated:

14 (a) The name of the person so charged;

15 (b) The crime charged against him;

16 (c) The approximate time, place and circumstances of its commission;

17 (d) The state in which he is believed to be, including the location of the  
18 accused therein at the time the application is made; and

19 (e) A certification that, in the opinion of the district attorney, the ends  
20 of justice require the arrest and return of the accused to this state for trial  
21 and that the proceeding is not instituted to enforce a private claim.

22 2. When the return to this state is required of a person who has been  
23 convicted of a crime in this state and has escaped from confinement or  
24 broken the terms of his bail, probation or parole, the district attorney of  
25 the county in which the offense was committed, the state board of parole  
26 commissioners, or the [warden of the institution], director of the depart-  
27 ment of prisons or the sheriff of the county from which escape was made  
28 shall present to the governor a written application for a requisition for the  
29 return of such person, in which application shall be stated:

30 (a) The name of the person;

31 (b) The crime of which he was convicted;

32 (c) The circumstances of his escape from confinement or of the breach  
33 of the terms of his bail, probation or parole; and

34 (d) The state in which he is believed to be, including the location of the  
35 person therein at the time application is made.

36 3. The application shall be verified by affidavit, shall be executed in  
37 duplicate and shall be accompanied by two certified copies of the indict-  
38 ment returned, or information and affidavit filed, or of the complaint  
39 made, to the judge or magistrate, stating the offense with which the  
40 accused is charged, or of the judgment of conviction or of the sentence.  
41 The district attorney, state board of parole commissioners, [warden]  
42 director of the department of prisons or sheriff may also attach such  
43 further affidavits and other documents in duplicate as he deems proper  
44 to be submitted with such application. One copy of the application, with  
45 the action of the governor indicated by endorsement thereon, and one  
46 of the certified copies of the indictment, complaint, information and affi-  
47 davits, or of the judgment of conviction or of the sentence shall be filed  
48 in the office of the secretary of state of the State of Nevada to remain of  
49 record in that office. The other copies of all papers shall be forwarded  
50 with the governor's requisition.

Sec. 82. NRS 200.030 is hereby amended to read as follows:  
 200.030 1. Capital murder is murder which is perpetrated by:  
 (a) Killing a peace officer or fireman:  
 (1) While such officer or fireman is acting in his official capacity  
 or by reason of an act performed in his official capacity; and  
 (2) With knowledge that the victim is or was a peace officer or  
 fireman.  
 For purposes of this paragraph "peace officer" means sheriffs of counties  
 and their deputies, marshals and policemen of cities and towns, the chief  
 and agents of the investigation and narcotics division of the department  
 of law enforcement assistance, personnel of the Nevada highway patrol  
 when exercising the police powers specified in NRS 481.150 and 481.180,  
 and the [warden, deputy warden,] director, deputy director, superin-  
 tendents, correctional officers and other employees of the [Nevada state  
 prison] department of prisons when carrying out any duties prescribed  
 by the [warden of the Nevada state prison.] director of the department.  
 (b) A person who is under sentence of life imprisonment without pos-  
 sibility of parole.  
 (c) Executing a contract to kill. For purposes of this paragraph "con-  
 tract to kill" means an agreement, with or without consideration, whereby  
 one or more of the parties to the agreement commits murder. All parties  
 to a contract to kill are guilty as principals.  
 (d) Use or detonation of a bomb or explosive device.  
 (e) Killing more than one person willfully, deliberately and with pre-  
 meditation as the result of a single plan, scheme or design.  
 2. Murder of the first degree is murder which is:  
 (a) Perpetrated by means of poison, or lying in wait, torture, or by any  
 other kind of willful, deliberate and premeditated killing.  
 (b) Committed in the perpetration or attempted perpetration of rape,  
 kidnapping, arson, robbery, burglary or sexual molestation of a child under  
 the age of 14 years; or  
 (c) Committed to avoid or prevent the lawful arrest of any person by  
 a peace officer or to effect the escape of any person from legal custody.  
 As used in this subsection, sexual molestation is any willful and lewd or  
 lascivious act, other than acts constituting the crime of rape, upon or with  
 the body, or any part or member thereof, of a child under the age of 14  
 years, with the intent of arousing, appealing to, or gratifying the lust, pas-  
 sions or sexual desires of the perpetrator or of the child.  
 3. Murder of the second degree is all other kinds of murder.  
 4. The jury before whom any person indicted for murder is tried shall,  
 if they find such person guilty thereof, designate by their verdict whether  
 such person is guilty of capital murder or murder of the first or second  
 degree.  
 5. Every person convicted of capital murder shall be punished by  
 death.  
 6. Every person convicted of murder of the first degree shall be pun-  
 ished by imprisonment in the state prison for life with or without possibi-  
 lity of parole. If the penalty is fixed at life imprisonment with possibility of  
 parole, eligibility for parole begins when a minimum of 10 years has been  
 served.

7. Every person convicted of murder of the second degree shall be  
 punished by imprisonment in the state prison for life or for a definite  
 term of not less than 5 years. Under either sentence, eligibility for parole  
 begins when a minimum of 5 years has been served.  
 Sec. 83. NRS 200.375 is hereby amended to read as follows:  
 200.375 No person convicted of forcible rape may, if the victim was  
 a child under the age of 14 years, be paroled unless a board consisting of  
 the administrator of the mental hygiene and mental retardation division  
 of the department of human resources or his designee, the [warden of  
 the Nevada state prison] director of the department of prisons and a  
 physician authorized to practice medicine in Nevada who is also a quali-  
 fied psychiatrist certifies that such person was under observation while  
 confined in [the Nevada state prison] an institution of the department  
 of prisons and is not a menace to the health, safety or morals of others.  
 Sec. 84. NRS 201.190 is hereby amended to read as follows:  
 201.190 1. Except as provided in subsection 2, every person of full  
 age who commits the infamous crime against nature shall be punished:  
 (a) Where physical force or the immediate threat of such force is used  
 by the defendant to compel another person to participate in such offense,  
 or where such offense is committed upon the person of one who is under  
 the age of 18 years, by imprisonment in the state prison for life with  
 possibility of parole, eligibility for which begins, unless further restricted  
 by subsection 3, when a minimum of 5 years has been served.  
 (b) Otherwise, by imprisonment in the state prison for not less than  
 1 year nor more than 6 years.  
 2. No person who is compelled by another, through physical force  
 or the immediate threat of such force, to participate in the infamous  
 crime against nature is thereby guilty of any public offense.  
 3. No person convicted of violating the provisions of subsection 1  
 of this section may, if the victim was a child under the age of 14 years,  
 be:  
 (a) Paroled unless a board consisting of the administrator of the men-  
 tal hygiene and mental retardation division of the department of human  
 resources or his designee, the [warden of the Nevada state prison] direc-  
 tor of the department of prisons and a physician authorized to practice  
 medicine in Nevada who is also a qualified psychiatrist certifies that such  
 person was under observation while confined in [the state prison] an  
 institution of the department of prisons and is not a menace to the health,  
 safety or morals of others.  
 (b) Released on probation unless a psychiatrist licensed to practice  
 medicine in the State of Nevada certifies that such person is not a menace  
 to the health, safety and morals of others.  
 Sec. 85. NRS 201.210 is hereby amended to read as follows:  
 201.210 1. Every person who commits any act of open or gross  
 lewdness is guilty:  
 (a) For the first offense, of a gross misdemeanor.  
 (b) For any subsequent offense, of a felony, and upon conviction shall  
 be punished by imprisonment in the state prison for not less than 1 year  
 nor more than 6 years.



2. No person convicted of violating the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the [warden of the Nevada state prison] director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in [the state prison] or institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

Sec. 86. NRS 201.220 is hereby amended to read as follows:  
201.220 1. Every person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.  
(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the [warden of the Nevada state prison] director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in [the state prison] or institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

Sec. 87. NRS 201.230 is hereby amended to read as follows:  
201.230 1. Any person who [shall] willfully and lewdly [commit] commits: any lewd or lascivious act, other than acts constituting the crime of rape and the infamous crime against nature, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the [warden of the Nevada state prison] director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in [the state prison] or

institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

Sec. 88. NRS 202.380 is hereby amended to read as follows:

202.380 1. Every person, firm or corporation who within the State of Nevada knowingly sells or offers for sale, possesses or transports any form of shell, cartridge or bomb containing or capable of emitting tear gas, or any weapon designed for the use of such shell, cartridge or bomb, except as permitted under the provisions of NRS 202.370 to 202.440, inclusive, is guilty of a gross misdemeanor.

2. Nothing in NRS 202.370 to 202.440, inclusive, shall prohibit police departments or regular salaried peace officers thereof, sheriffs and their regular salaried deputies, [wardens and guards of the Nevada state prison,] the director, deputy director and superintendents of, and guards employed by, the department of prisons, personnel of the Nevada highway patrol or the military or naval forces of this state or of the United States from purchasing, possessing or transporting such shells, cartridges, bombs or weapons for official use in the discharge of their duties.

Sec. 89. NRS 211.040 is hereby amended to read as follows:

211.040 1. Payment of expenses and the method of transporting a prisoner from a county jail to [the state prison] an institution of the department of prisons shall be as provided in chapter 209 of NRS. When a prisoner is transferred from the county jail to [the state prison,] such an institution, the sheriff shall provide the [warden of the state prison] director of the department of prisons with a written report pertaining to medical, psychiatric, behavioral or criminal aspects of the prisoner's history. This report may be based upon observations of the prisoner while confined in the county jail and shall note in particular any medication or medical treatment administered in the jail, including type, dosage and frequency of administration.

2. Except as provided in subsection 1, the sheriff, either by himself, his deputy, or by one or more of his jailers, shall transfer all prisoners within his county to whatever place of imprisonment the sentence of the court may require, at as early a date after the sentence as practicable. For that purpose the board of county commissioners are required to furnish, out of the county treasury, all necessary costs, charges and expenses of the prisoner or prisoner, and of the officer or officers having charge thereof, to which shall be added mileage for each officer, at the rate of 20 cents per mile, one way only.

3. The provisions of subsection 2 [shall be applicable,] apply in cases where prisoners are taken from county jails to be tried at any courts in other counties.

Sec. 90. NRS 212.030 is hereby amended to read as follows:  
212.030 When any prisoner or prisoners escape from [the state prison,] it shall be lawful for the warden of this state prison to [an institution of the department of prisons, the director of the department may issue a warrant for the recapture of the escaped prisoner or prisoners, which warrant [shall have force and effect] is effective in any county in

1 this state, and may command the sheriff of any county in this state, or  
2 any constable thereof, or any police officer of any city in this state, to  
3 arrest the prisoner or prisoners, and make return to the [warden,]  
4 director, with the prisoner or prisoners who may be arrested, under the  
5 warrant.

6 SEC. 91. NRS 212.040 is hereby amended to read as follows:  
7 212.040 If an escape is not the result of carelessness, incompetency,  
8 or other official delinquency of the [warden] director or other officers  
9 of the [state prison, any and] department of prisons, all expenses of  
10 enforcing the provisions of NRS 212.030, or [in any wise] pertaining  
11 to the recapture and return of escaped convicts [to the state prison, shall  
12 be] are a charge against the state, and shall be paid out of the reserve  
13 for statutory contingency fund upon approval by the state board of  
14 examiners.

15 SEC. 92. NRS 212.150 is hereby amended to read as follows:

16 212.150 1. [No] A person shall not visit, or in any manner com-  
17 municate with, any prisoner convicted of or charged with any felony,  
18 imprisoned in the county jail, other than the officer having such prisoner  
19 in charge, his attorney, or the district attorney, [except such] unless the  
20 person has a written permission so to do, signed by the district attorney,  
21 or has the consent of the director of the department of prisons or the  
22 constable [.] or sheriff [or warden] having such prisoner in charge.

23 2. Any person violating, aiding in, conniving at, or participating in  
24 the violation of this section is guilty of a gross misdemeanor.

25 SEC. 93. NRS 212.160 is hereby amended to read as follows:

26 212.160 1. Any person, not authorized by law, who knowingly  
27 [shall furnish, or attempt] furnishes, or attempts to furnish, or [aid or  
28 assist] aids or assists in furnishing or attempting to furnish to any  
29 prisoner confined in [the state prison, state prison farm, conservation  
30 honor camp,] an institution of the department of prisons, or any other  
31 place where prisoners are authorized to be or are assigned by the  
32 [warden,] director of the department, any deadly weapon, explosives,  
33 any controlled substance as defined in chapter 453 of NRS, or intoxicat-  
34 ing liquor, shall be punished:

35 (a) Where a deadly weapon, controlled substance or explosive is  
36 involved, by imprisonment in the state prison for not less than 1 year  
37 nor more than 6 years.

38 (b) Where an intoxicant is involved, for a gross misdemeanor.

39 2. Knowingly leaving or causing to be left any such article where  
40 it may be obtained by any such prisoner [shall be held to be] consid-  
41 ered, within the meaning of this section, the furnishing such article to  
42 such prisoner.

43 SEC. 94. NRS 213.020 is hereby amended to read as follows:

44 213.020 1. Any person intending to apply to have a fine or forfeiture  
45 remitted, or a punishment commuted, or a pardon granted, [or someone  
46 in his behalf, shall make out quadruplicate copies of notices in writing  
47 of such application, specifying therein:

48 (a) The court in which the judgment was rendered.

1 (b) The amount of the fine or forfeiture, or kind or character of  
2 punishment.

3 (c) The name of the person in whose favor the application is to be  
4 made.

5 (d) The particular grounds upon which the application will be based.

6 (e) The time when it will be presented.

7 2. One of the copies shall be served upon the district attorney and  
8 one upon the district judge of the county wherein the conviction was  
9 had. The triplicate copy shall be served upon the [warden of the Nevada  
10 state prison] director of the department of prisons and the original copy  
11 shall be filed with the clerk of the board. In cases of fines and forfeitures  
12 a similar notice shall also be served on the chairman of the board of  
13 county commissioners of the county wherein the conviction was had.

14 3. The notice shall be served, as herein provided, at least 30 days  
15 prior to the presentation of the application, unless a member of the  
16 board, for good cause, prescribes a shorter time.

17 SEC. 95. NRS 213.100 is hereby amended to read as follows:

18 213.100 Whenever clemency [shall have been] is granted by the  
19 board, there shall be served upon the [warden of the state prison,] direc-  
20 tor of the department of prisons or other officer having the person in  
21 custody, an order to discharge him therefrom upon a day to be named  
22 in the order, upon the conditions, limitations or restrictions named  
23 therein.

24 SEC. 96. NRS 228.150 is hereby amended to read as follows:

25 228.150 1. When requested, the attorney general shall give his opin-  
26 ion, in writing, upon any question of law, to the governor, the secretary  
27 of state, the state controller, the state treasurer, [the trustees, commis-  
28 sioners, or warden of the state prison, the state hospital, or the officers of  
29 any state institution,] the director of the department of prisons, to the  
30 head of any state department, agency, board or commission, to any dis-  
31 trict attorney and to any city attorney of any incorporated city within the  
32 State of Nevada, upon any question of law relating to their respective  
33 offices, departments, agencies, boards or commissions.

34 2. Nothing contained in subsection 1 [shall be construed to require]  
35 requires the attorney general to give his written opinion to any city attor-  
36 ney concerning questions relating to the interpretation or construction of  
37 city ordinances.

38 3. The attorney general shall receive no fee for the performance of  
39 any duty required of him by law.

40 SEC. 97. NRS 281.210 is hereby amended to read as follows:

41 281.210 1. Except as provided in this section, it is unlawful for  
42 any individual acting as a school trustee, state, township, municipal or  
43 county official, or as an employing authority of the University of Nevada,  
44 any school district or of the state, any town, city or county, or for any  
45 state or local board, agency or commission, elected or appointed, to  
46 employ in any capacity on behalf of the State of Nevada, or any county,  
47 township, municipality or school district thereof, or the University of  
48 Nevada, any relative of such individual or of any member of such board,  
49 agency or commission, within the third degree of consanguinity or affinity.

50 2. This section [shall not be construed to] does not apply:

(a) To school districts, when the teacher or other school employee so related is not related to more than one of the trustees or person who is an employing authority by consanguinity or affinity and shall receive a unanimous vote of all members of the board of trustees and approval by the state department of education.

(b) To school districts, when the teacher or other school employee so related has been employed by an abolished school district or educational district, which constitutes a part of the employing county school district, and the county school district for 4 years or more prior to April 1, 1957.

(c) To the wife of the [warden of the Nevada state prison.] superintendent of an institution of the department of prisons.

(d) To the wife of the superintendent of the Nevada girls training center.

(e) To relatives of blind officers and employees of the bureau of services to the blind of the rehabilitation division of the department of human resources when such relatives are employed as automobile drivers for such officers and employees.

3. Nothing in this section [shall:

(a) Prevent] (a) Prevents any officer in this state, employed under a flat salary, from employing any suitable person to assist in any such employment, when the payment for any such services shall be met out of the personal funds of such officer.

(b) [Be deemed to disqualify] Disqualifies any widow with a dependent or dependents as an employee of any officer or board in this state, or any of its counties, townships, municipalities or school districts.

4. [No] A person employed contrary to the provisions of this section shall not be compensated for such employment.

5. Any person violating any provisions of this section is guilty of a gross misdemeanor.

Sec. 98. NRS 412.278 is hereby amended to read as follows:

412.278 1. No provost marshal, commander of a guard, master at arms, [warden.] keeper or officer of a city or county jail or any other jail, penitentiary or prison designated under NRS 412.276 to whose charge a prisoner is committed shall, within 24 hours after that commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

SEC. 99. NRS 433A.450 is hereby amended to read as follows:  
NRS 433A.450 [Whenever a person, while undergoing imprisonment in the Nevada state prison, becomes mentally ill as determined by two mental health professionals, at least one of them being a psychiatrist, the warden shall apply to the administrator for detention and mental health treatment at an appropriate division facility as determined by the

administrator. If adequate security and treatment services are not available in division facilities as determined by the administrator, the administrator shall make available consultation and other appropriate services within the resources available to the division as he deems necessary to the warden in order that the person is provided treatment at the Nevada state prison. It shall be the warden's decision whether to accept such services.] When a psychiatrist and one other mental health professional determines that an offender confined in an institution of the department of prisons is mentally ill, the director of the department of prisons shall apply to the administrator for the offender's detention and treatment at a division facility selected by the administrator. If the administrator determines that adequate security or treatment is not available in a division facility, the administrator shall provide, within the resources available to the division and as he deems necessary, consultation and other appropriate services for the offender at the place where he is confined. It is the director's decision whether to accept such services.

Sec. 100. NRS 209.010 to 209.500, inclusive, are hereby repealed.

Sec. 101. The legislative counsel shall, in preparing the supplement to Nevada Revised Statutes with respect to any section which is not amended by this act or which is further amended or added by another act, substitute an appropriate reference to the director of the department of prisons where reference is made to the former warden of the Nevada state prison.

Sec. 102. The inventory of the state prison warehouse on July 1, 1977, constitutes the opening balance of the prison warehouse fund.



EDUCATION, HEALTH, WELFARE & STATE  
INSTITUTIONS

JANUARY 26, 1977

The meeting was called to order at 8:05 a.m. in Room #323 of the Legislative Building, Carson City.

Senator Schofield was in the chair.

PRESENT: Senator Jack Schofield, Chairman  
Senator Joe Neal, Vice Chairman  
Senator Richard Blakemore  
Senator William Raggio  
Senator Wilbur Faiss  
Senator William Hernstadt

OTHERS PRESENT:

Susan Haase, Nevada Association for Retarded Citizens  
Michael Medema, Nevada State Prison  
Jack Middleton, Mental Hygiene & Mental Retardation  
Patrick Mullen, Nevada State Prison  
Orville A. Wahrenbrock, Department of Human Resources  
Charles Wolff, Warden, Nevada State Prison

The minutes of the previous meeting were distributed and unanimously approved by the committee members. Chairman Schofield remarked that the minutes were a well summarized report of the committee's visit to the Nevada State Prison on the previous day.

Senator Schofield then commended Warden Wolff and those he had assigned to accompany the committee through Maximum, Medium and Women's facilities for their courtesy and cooperation in showing the committee everything it had wanted to see. He commented that the committee came away from the visit feeling satisfied that from what they saw, they would be much more knowledgeable when deliberating on legislation affecting the prison system.

Chairman Schofield then distributed and reviewed the revised committee visitation schedule (see Attachment #1).

Testimony was then heard on the following bills:

SB 96 LOWERS MAXIMUM AGE FOR DETENTION OF MENTALLY RETARDED PERSONS.

Mr. Jack Middleton, Associate Administrator, Department of Mental Hygiene and Mental Retardation testified in favor of the bill. He said that the purpose of the measure was to change the age of majority from 21 to 18 as it deals with the mentally retarded who are cared for in State institutions. The bill does have a fiscal note. At the present time parents pay for the care of children up to the age of 21. The estimated affect will be the loss in fee revenues by \$4,600 the first year and \$5,300 the following year.

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Senator Neal referred to section 18 and asked if there were any changes on the current work program. Mr. Medema answered that section 18 is identical to the present statute and that it is just being lifted from one section of NRS and placed in another section for the purpose of housekeeping.

There being no further questions or testimony on SB 114, action by the committee was deferred until later in the meeting.

SB 116. ESTABLISHES THE DEPARTMENT OF PRISONS

Warden Charles Wolff testified that the intent of the bill is to provide a sound organizational structure which becomes essential to the effective administration of a comprehensive correctional operation. It refines the terminology that is used throughout the United States with regard to addressing corrections and the correctional organization. Penologists basically are placing increasing effectiveness on a fully integrated operation that is linked to a variety of classification requirements with regard to the inmates within the system and there is a definite need for a coherent and consistent administrative legal framework to cope with the demands that are being placed on correctional institutions today.

Warden Wolff continued by saying that most of SB 116 is a consolidation of a variety of statutes that are in force in the State of Nevada and places them into a concise form and refines the terminology with regard to some of the titles and the individual positions in the Nevada State Prisons. It also clarifies the fact that it is, in fact, an operating department within the State of Nevada. It addresses the major issues of policy structure, accountability and operations of the prisons and seeks to provide a more effective approach to corrections with improved standards and procedures for custody care and training and a more systematic administrative organization. Fundamentally, the bill addresses the point that the State does have a basic obligation to protect the public by providing institutional confinement care and training of the offenders; efforts to provide persons in correctional institutions with adequate educational, vocational, counseling training and other services so that they may be prepared for lawful community living which is essential to the reduction of crime; upgrading the correctional institutions and services deserves priority with regard to considerations as a means of lowering crime; preventing offenders and particularly youths and first offenders from establishing careers in crime

Page five

and being institutionalized; and, correctional institution and services should be diversified in programs of personnel so as to facilitate individualized custody care, treatment and possible rehabilitation of the offender. He noted that SB 114 is consolidated into the scope of SB 116 in the event SB 114 receives favorable consideration.

Senator Raggio asked a series of questions and Warden Wolff answered as follows:

1. QUESTION: This bill changes the terminology to indicate that the Warden becomes the Director. Are those who are now in the category of superintendents under classified service?

ANSWER: Yes. The Director and Deputy Director are the only unclassified positions.

2. QUESTION: Does this bill seek to incorporate some of the requisites which have been part of the federal court decisions?

ANSWER: To a certain extent; however, there is no major thrust in that direction because these requisites are already in the statutes.

3. QUESTION: Is there any provision for temporary furlough of inmates?

ANSWER: Provision for temporary furlough is made in the present law.

QUESTION: Has temporary furlough been used during Warden Wolff's tenure?

ANSWER: This statute has been used for people who are down to having received a parole and have a very short period of time to serve before they are released. The temporary furlough is given them during this period to be used for finding jobs and living locations. The prisoner is accompanied by a probation or parole officer on these furloughs.

QUESTION: Could this temporary furlough be used when there is a terminal illness in a prisoner's family, a death, etc.?

ANSWER: Yes, if it is within the State of Nevada.

QUESTION: Does this provision of the bill cover the situation where a person could be absent without leave from a temporary furlough? Does this constitute an escape?

ANSWER: It is part of the furlough agreement.

Because this was not specified in the bill or the existing law, Senator Raggio felt the "escape" clause should specifically be written into the section pertaining to temporary furlough.

Senator Raggio moved that SB 116 be amended to specify that an unauthorized departure or absence from any authorized leave by an inmate constitutes an escape. Senator Blakemore seconded the motion. Motion carried unanimously.

Senator Raggio said that he would take the responsibility for getting the amendment made by the bill drafter.

Senator Raggio then asked further questions of Warden Wolff regarding SB 116.

4. QUESTION: Referring to section 51 of SB 116, in most cases do prisoners have other funds when they are released?  
ANSWER: Yes, and if an inmate has from \$0 to \$250 of his own money, he is given a \$50 check from the State; \$250 to \$500, he is given \$35; and, if he has resources of \$500 or more, he is not allowed any "gate" money.
5. QUESTION: Does this bill leave any major omissions from the existing law?  
ANSWER: The only omissions are those which are also contained in SB 114 relating to some of the technical reporting requirements to the Prison Board. In actual practice, these reports have not been made in at least 8 years because they are no longer requested by the Prison Board.
6. QUESTION: What presently is available in the psychiatric area? Is there a resident psychiatrist at any of the institutions?  
ANSWER: There is a fulltime psychologist for the three institutions and a parttime psychiatrist who obligates approximately 20 hours a week. Dr. Molte is the psychiatrist; Dr. Robert Wittemore is the psychologist; and, Dr. Stublefield is the fulltime medical doctor for the facilities. The Governor's Budget contains a recommendation for a fulltime psychiatrist and a parttime psychiatrist for the new facility at Jean.

Warden Wolff stated that he felt reasonable medical care was being provided for the prison population and there is a procedure which handles inmates who need further treatment in an outside medical facility.

Chairman Schofield asked about the academic and physical education programs for the entire prison population.



Warden Wolff stated that the thrust of the prison programs in this area has been in trying to get back to the work ethic and organized activity which will develop skills. He said that there used to be a mandatory school program but court decisions have found that the individuals can be provided the opportunity for education but they cannot be mandated to attend educational classes. He added that an inmate who does participate in classes can accumulate "good time" credits or "reward for effort."

Senator Neal asked if there were any changes regarding responsibilities of the Prison Board. Warden Wolff answered that this could not be changed by statute because the Prison Board's responsibilities are set forth in the State Constitution.

Senator Hernstadt, referring to page 18 of SB 116, line 1, asked why the legal age is 21 instead of 18? Mr. Medema answered that there was no reason for this not being changed and Warden Wolff stated there would be no objection to changing the age of majority. Senator Raggio intervened by saying that it was his opinion if the age was changed, the summary and title of the bill would also have to be changed.

Senator Hernstadt moved that an amendment be drawn to change the age of majority from 21 to 18 to conform with other State laws.

Senator Faiss seconded the motion.

The motion did not carry by a vote of 2 in favor (Senators Hernstadt and Faiss) to 3 against (Senators Blakemore, Raggio and Schofield). Senator Neal did not vote.

There was further discussion as to whether or not all of the statutes should be made consistent on the age of majority. Senator Hernstadt was instructed by Chairman Schofield to look into this matter with the Legislative Counsel.

Warden Wolff then requested the possibility of two possible amendments to SB 116 (See attachment 2).

Page 9, line 8 - After commissioners add "upon referral by the Director to the Board." Warden Wolff stated the purpose of this was to give him more latitude.

Senator Raggio commented that he felt the language would then be too limited. Director Wolff withdrew the amendment.

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Page 11, line 41 - This line begins the amendment Director Wolff feels would allow for restitution of victims and that possibly the wording needs clarification of "To pay either in full or ratably the offender's obligation which has been acknowledged by him in writing or which has been reduced to judgement." Warden Wolff would like language added to provide for the possibility of restitution to the victim by the inmate who was sentenced for a crime against that person. He added that this could be as a condition of parole, but not as a condition of sentence; however, the restitution has to be done on a voluntary basis. According to Warden Wolff "restitution to a victim" laws in other states have been quite effective.

Chairman Schofield said that he would get an opinion on this matter from the Legislative Counsel

ACTION WAS THEN TAKEN BY THE COMMITTEE ON THE BILLS WHICH HAD BEEN DISCUSSED AT THE MEETING:

- SB 94 Mr. Wahrenbrock asked if he could be heard on SB 94 before any action was taken by the committee. His request was granted.
- SB 96 Senator Raggio moved DO PASS.  
Seconded by Senator Blakemore.  
Motion carried unanimously. (See Attachment 3)
- SB 114 Senator Raggio moved DO PASS.  
Seconded by Senator Hernstadt.  
Motion carried unanimously. (See Attachment 4)
- SB 116 Senators Raggio and Hernstadt will request the Legislative Counsel to make suggested amendment and the bill will be reconsidered at a later meeting.
- SB 99 Senator Raggio moved the attached letter from the Department of Mental Health and Mental Retardation regarding SB 99 be made a part of the minutes. (See Attachment 5)  
Seconded by Senator Blakemore.  
Motion carried unanimously.

Senator Hernstadt moved DO PASS  
Seconded by Senator Raggio  
Motion carried unanimously. (See Attachment 6)

Chairman Schofield then announced that the following Senators would give an explanation of specified bills on the floor of the Senate:

M E M O

ATTACHMENT #2

TO: WARDEN WOLFF

FROM: MIKE MEDEMA


SUBJECT: SUGGESTED CHANGES SB 116      DATE: 1/25/77

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The following are suggested changes for SB 116:

Page 9, Line 8 - after commissioners add "upon referral by the Director to the Board" - This allows latitude to the Director.

Page 11, Line 41 - This line begins the amendment we feel allows for restitution of victims.  
You may feel the wording needs clarification.

  
MIKE

EDUCATION, HEALTH, WELFARE AND  
STATE INSTITUTIONS

FEBRUARY 2, 1977

The meeting was called to order at 8:12 a.m. in Room 323 on Wednesday, February 2, 1977, with Senator Jack Schofield in the Chair.

PRESENT: Chairman Jack Schofield  
Vice-Chairman Joe Neal (arrived at 8:35 a.m.)  
Senator Richard Blakemore  
Senator William Raggio  
Senator Wilbur Faiss  
Senator William H. Hernstadt

GUESTS: Mr. Jim Costa, Department of Education  
Mr. Merlin Anderson, Post Secondary Education Commission  
Mr. Robert Best, Nevada School Boards Association  
Ms. Shirley Wedow, State Board of Education  
Mr. Richard Wright, Washoe County School District  
Mr. Joseph Newlin, Nev. State Education Association  
Ms. Hope Roberts, Nev. Advisory Council for Voc. Tech. Ed.  
Mr. Robert Hawks, Nv. Advisory Council for Voc., Tech. Education  
Senator Keith Ashworth, Sponsor S.B. 138

S.B. 116

The Chairman called for action on this bill and its amendment. Senator Blakemore said that the amendment was worded incorrectly, and would have to be returned to the bill drafters. No action was taken.

S.B. 94

Senator Raggio stated that Mr. Frank Sullivan of the Washoe County Probation office would like to testify on this bill at the next scheduled hearing for this issue.

S.B. 117 (Exhibit "A")

Mr. Jim Costa submitted and read a statement to Committee from the Department of Education. (Exhibit "B")

Senator Raggio commented that when he was a member of the Finance Committee, they had twice considered 'compaction' for the Department, and it had been denied. Senator Raggio also said that this wasn't entered in the Governor's executive budget for Education, and he himself, could not see the significance of membership in the Education Commission of the States (ECS).

It was discussed among the Senators and Mr. Costa that the information from E.C.S. could be obtained without paying for membership. Mr. Costa said that this is true, but Nevada has no input and this is necessary in order to prevent the Federal government from passing legislation which dictates

EDUCATION, HEALTH, WELFARE AND  
STATE INSTITUTIONS

FEBRUARY 4, 1977

The meeting was called to order at 8:10 a.m. in Room 323 on Friday, February 4, 1977, with Senator Jack Schofield in the Chair.

PRESENT: Chairman Jack Schofield  
Vice-Chairman Joe Neal  
Senator William Raggio  
Senator Richard Blakemore  
Senator Wilbur Faiss  
Senator William H. Hernstadt

GUESTS: Charles Wolff, Warden, Nevada State Prison  
Michael Medema, Nevada State Prison  
Jim Costa, Department of Education  
Robert Best, Nev. School Boards Association  
Shirley Wedow, State Board of Education  
Joseph Newlin, Nev. State Education Association  
Frank Daykin, Legislative Counsel Bureau  
Jerry Nielsen, Department of Education  
Betty Carlson, Dillworth Community School  
Joan Kenney, State Board of Education  
Richard Wright, Washoe County School District  
Neldon Mathews, Lincoln County School District  
Assemblyman William A. Kissam

Chairman Schofield opened the meeting by asking the Committee to consider the Amendments 28A and 26A that were written for S.B. 116 (See Exhibit "A").

Warden Wolff said that the Agency concurred with the amendments.

Senator Raggio: Amend with amendments  
28A and 26A (Exhibits "B" and "C") and Do Pass  
Senator Faiss: 2nd the Motion

The Motion passed.

Warden Wolff interjected that the Department of Mental Health requested that Lines 6, 7, 8, Sec. 33 of Page 6 of S.B. 116 be deleted, and the Prison administration concurred with this request.

Senator Raggio: Rescind the previous motion  
and further amend (the above requested deletion)  
and Do Pass  
Senator Neal: 2nd the Motion

The Motion passed.

S. B. 116

SENATE BILL NO. 116—COMMITTEE ON EDUCATION, HEALTH  
AND WELFARE AND STATE INSTITUTIONS

JANUARY 21, 1977

Referred to Committee on Education, Health and Welfare  
and State Institutions

SUMMARY—Establishes the department of prisons. (BDR 16-198)

FISCAL NOTE: Local Government Impact: No  
State or Industrial Insurance Impact: YesEXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to corrections; establishing the department of prisons; providing for its organization, administration, powers, duties and functions; providing for the transportation, transfer, custody, care, education and employment of offenders; providing for credits on the term of imprisonment; providing for the release of offenders; providing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- 1 SECTION 1. Chapter 209 of NRS is hereby amended by adding
- 2 thereto the provisions set forth as sections 2 to 51, inclusive, of this act.
- 3 SEC. 2. *As used in this chapter, unless the context otherwise requires,*
- 4 *the terms defined in sections 3 to 10, inclusive, of this act have the mean-*
- 5 *ings ascribed to them in those sections.*
- 6 SEC. 3. "Board" means the board of state prison commissioners as
- 7 defined by section 21 of article 5 of the Nevada constitution.
- 8 SEC. 4. "Classification" means the process of individual case evalua-
- 9 tion to determine the custody and program needs of the individual
- 10 offender.
- 11 SEC. 5. "Custody" means the level of security restrictions imposed
- 12 on an offender by a classification committee.
- 13 SEC. 6. "Department" means the department of prisons.
- 14 SEC. 7. "Director" means the director of the department of prisons.
- 15 SEC. 8. "Institution" means a prison, community correctional center,
- 16 or other facility operated by the department for the custody, care and
- 17 training of offenders.
- 18 SEC. 9. "Offender" means any person convicted of a felony under
- 19 the laws of this state and sentenced to imprisonment in the state prison.
- 20 SEC. 10. "Superintendent" means the administrative officer in charge
- 21 of an institution.
- 22 SEC. 11. 1. The department of prisons is hereby created.
- 23 2. The head of the department is the board of state prison commis-
- 24 sioners.

Adopted ☐  
Lost ☐  
Date: ☐  
Initial: ☐  
Concurred in ☐  
Not concurred in ☐  
Date: ☐  
Initial: ☐

Adopted ☐  
Lost ☐  
Date: ☐  
Initial: ☐  
Concurred in ☐  
Not concurred in ☐  
Date: ☐  
Initial: ☐

Amendments to Assembly/ Senate

Bill/Joint Resolution No. 116 (BDR 16-198)

Proposed by ~~Committee on Education, Health~~  
~~and Welfare and State Institutions~~

Exhibit "B"

1977 Amendment N<sup>o</sup> 28 A

Consistent with Amendment No. 26A

Amend section 1, page 1, line 2, delete "51," and insert "51.5,".

Amend the bill as a whole, insert a new section, to be designated as section 51.5, following section 51 to read:

"Sec. 51.5. 1. Any unauthorized absence from the place of assignment by an offender who is on temporary furlough, participating in a work or educational release program or otherwise in a classification assignment

Form 1a (Amendment Blank)

3044A

Drafted by END

Date 1-26-77

To Journal  
(3) CFB

under the provisions of this chapter, constitutes an escape from prison,  
and the offender shall be punished as provided in NRS 212.090.

2. This section does not apply to offenders released on parole."

Amend section 59, page 12, delete lines 22 through 25 and insert:

"his place of employment or his designated quarters, such absence  
immediately terminates his enrollment in the work release program."

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Adopted ☐  
Lost ☐  
Date: ☐  
Initial: ☐  
Concurred in ☐  
Concurred in ☐  
Date: ☐  
Initial: ☐

Adopted ☐  
Lost ☐  
Date: ☐  
Initial: ☐  
Concurred in ☐  
Not concurred in ☐  
Date: ☐  
Initial: ☐

Amendments to Assembly / Senate

Bill / Joint Resolution No. 116 (BDR 16-193)

Proposed by Committee on Education, Health  
and Welfare and State Institutions

Exhibit "C"

1977 Amendment No 26 A

Consistent with Amendment No. 25A

Amend section 56, page 11, line 43, delete the period and insert:

" , and any restitution to a victim of his offense which has been ordered  
by the court."

Amend the bill as a whole by inserting a new section, to be designated  
as section 64.5, following section 64, to read:

"Sec. 64.5. Chapter 175 of MRS is hereby amended by adding thereto a  
new section which shall read as follows:

Form 1a (Amendment Blank)

3044A

Drafted by                      Date 1-30-78 To Engrossment  
(4) CF

convicted defendant to the claimant of the amount of the loss, or a lesser  
amount if justice so requires.

3. This order may be enforced by execution upon the property of the  
defendant. The entry of such an order does not bar a civil action by  
the claimant against the convicted defendant or any other person for any  
loss suffered by the claimant, but the amount of any restitution actually  
received shall be deducted in entering judgment in any such action, and  
the satisfaction of any such ~~motion~~ judgment absolves the convicted  
defendant of any further obligation of restitution.

Amend the title of the bill by deleting the 1st line and inserting:

"AN ACT relating to the punishment of crime; establishing the  
Department of prisons; providing".

Amend the title of the bill, 5th line insert "providing for restitution  
by convicted offenders;" after "offenders;".

AS Form 1b (Amendment Blank)

To Engrossment

2487

(4) CFB

NDGC 0229  
JA 1230

1. When a judgment of conviction has been entered, the court shall, at the request of the personal representative of any person who was killed, or at the request of any person who was injured or whose property was damaged, destroyed or taken and not returned by the defendant in the course of committing the offense, hold a separate hearing to determine the amount of the loss so incurred. The loss in cases of personal injury or wrongful death is limited to actual expenses and loss of earnings.
2. The claimant and the convicted defendant may offer evidence of value and of the circumstances of the loss. Unless upon this evidence justice otherwise requires, the court shall order restitution by the convicted defendant to the claimant of the amount of the loss, or a lesser amount if justice so requires.
3. This order may be enforced by execution upon the property of the defendant. The entry of such an order does not bar a civil action by the claimant against the convicted defendant or any other person for any loss suffered by the claimant, but the amount of any restitution actually received shall be deducted in entering judgment in any such action, and the satisfaction of any such ~~action~~ judgment absolves the convicted defendant of any further obligation of restitution."

Amend the title of the bill by deleting the 1st line and inserting:

"AN ACT relating to the punishment of crime; establishing the department of prisons; providing".

Amend the title of the bill, 5th line insert "providing for restitution by convicted offenders;" after "offenders;".

2-10-77

FIFTY-NINTH SESSION

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sections 13 through 17, respectively, and inserting a new section to be designated as section 12, following section 10, to read:

"Sec. 12. NRS 361.745 is hereby amended to read as follows:

361.745 1. On the 3rd Mondays of July, October, January and March of each year, each county treasurer shall [:

(a) Settle in full with the state controller.

(b) Send to the state treasurer all funds which shall have] *deposit with the state treasurer all money which has come into his hands as county treasurer for the use and benefit of the state. [, taking a receipt therefor from the state treasurer.]*

2. Each county treasurer shall hold himself in readiness to settle and pay all [moneys] *money* in his hands belonging to the state at all other times whenever required to do so by order signed by the state controller, who is authorized to draw such order whenever he deems it necessary."

Amend section 14, page 7, by deleting line 36 and inserting: "045, 344.100, 360.273, 387.020".

Amend section 15, page 7, line 40, by deleting "Nevada tax commission" and inserting: "department of taxation".

Amend section 15, page 7, lines 41 and 42, by deleting "commission." and inserting "department."

Amend the title of the bill, 3rd line, by deleting: "enlarging the state board of finance;".

Senator Gibson moved the adoption of the amendment.

Remarks by Senator Gibson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 57.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

1977 Amendment No. 35A.

Amend section 1, page 1, line 3, by deleting "expire] *expires*" and inserting "expire".

Amend section 1, page 1, line 4, by deleting "persons" and inserting "persons] *expires*".

Amend the title of the bill, line 1, after "licenses;" by inserting: "eliminating the requirement that licensees aged 70 or older renew licenses every two years;".

Senator Blakemore moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 58.

Bill read second time, ordered engrossed and to third reading.

Senate Bill No. 88.

Bill read second time, ordered engrossed and to third reading.

Senate Bill No. 116.

Bill read second time.

The following amendments were proposed by the Committee on Education, Health and Welfare and State Institutions:

## 1977 Amendment No. 26A.

Amend section 56, page 11, line 43, by deleting the period and inserting: "*and any restitution to a victim of his offense which has been ordered by the court.*"

Amend the bill as a whole by inserting a new section, to be designated as section 64.5, following section 64, to read:

"Sec. 64.5. Chapter 175 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. *When a judgment of conviction has been entered, the court shall, at the request of the personal representative of any person who was killed, or at the request of any person who was injured or whose property was damaged, destroyed or taken and not returned by the defendant in the course of committing the offense, hold a separate hearing to determine the amount of the loss so incurred. The loss in cases of personal injury or wrongful death is limited to actual expenses and loss of earnings.*

2. *The claimant and the convicted defendant may offer evidence of value and of the circumstances of the loss. Unless upon this evidence justice otherwise requires, the court shall order restitution by the convicted defendant to the claimant of the amount of the loss, or a lesser amount if justice so requires.*

3. *This order may be enforced by execution upon the property of the defendant. The entry of such an order does not bar a civil action by the claimant against the convicted defendant or any other person for any loss suffered by the claimant, but the amount of any restitution actually received shall be deducted in entering judgment in any such action, and the satisfaction of any such judgment absolves the convicted defendant of any further obligation of restitution.*"

Amend the title of the bill by deleting the 1st line and inserting: "An Act relating to the punishment of crime; establishing the department of prisons; providing".

Amend the title of the bill, 5th line, by inserting "providing for restitution by convicted offenders;" after "offenders;"

## 1977 Amendment No. 28A.

Amend section 1, page 1, line 2, by deleting "51," and inserting "51.5,"

Amend the bill as a whole by inserting a new section, to be designated as section 51.5, following section 51 to read:

"Sec. 51.5. 1. *Any unauthorized absence from the place of assignment by an offender who is on temporary furlough, participating in a work or educational release program or otherwise in a classification assignment under the provisions of this chapter, constitutes an escape from prison, and the offender shall be punished as provided in NRS 212.090.*

2. *This section does not apply to offenders released on parole.*"

Amend section 59, page 12, by deleting lines 22 through 25 and inserting: "*his place of employment or his designated quarters, such absence immediately terminates his enrollment in the work release program.*"

## 1977 Amendment No. 70A.

Amend section 33, page 5, line 49, by deleting "1."

Amend sec. 33, page 6, by deleting lines 6 through 8.  
Senator Raggio moved the adoption of the amendments.  
Remarks by Senator Raggio.  
Amendments adopted.  
Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 118.

Bill read second time.

The following amendment was proposed by the Committee on Education, Health and Welfare and State Institutions:

1977 Amendment No. 71A.

Amend section 4, page 2, line 39, by deleting "by" and inserting: "*in a manner provided by regulations of*".

Senator Faiss moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Finance:  
1977 Amendment No. 77A.

Amend section 1, page 1, line 2, by deleting the open bracket.

Amend section 1, page 1, by deleting lines 3 through 10 and inserting: "*chapter shall be [paid into the general fund] deposited in the state treasury [.] to the credit of the appropriate account within the state general fund for the use of the department of commerce. At the end of a fiscal year the unused balance of any amounts collected pursuant to this chapter shall not revert to the general fund.*"

Amend the bill as a whole by inserting a new section to be designated as section 2, following section 1, to read:

"Sec. 2. NRS 677.430 is hereby amended to read as follows:

677.430 1. At least once each year, the director or his duly authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers and records of such licensee so far as they pertain to the business licensed under this chapter.

2. For each examination the director shall charge and collect from the licensee a [fee of \$10] *reasonable fee* for each man-hour expended in conducting the examination and preparing and typing the examination report."

Amend the bill as a whole by renumbering section 2 as section 3.

Amend section 2, page 1, line 15, by deleting the semicolon and inserting "[;] ."

Amend section 2, page 1, line 17, by deleting the semicolon and inserting "[;] ."

Amend section 2, page 1, line 19, by deleting the semicolon and inserting "[;] ."

Amend section 2, page 1, line 20, by deleting the open bracket.

Amend section 2, page 1, line 22, by deleting "into the general fund" and inserting "[into the general fund]".

Amend section 2, page 1, by deleting line 23 and inserting: "state

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 116

SENATE BILL NO. 116—COMMITTEE ON EDUCATION,  
HEALTH AND WELFARE AND STATE INSTITUTIONS

JANUARY 21, 1977

Referred to Committee on Education, Health and Welfare  
and State Institutions

SUMMARY—Establishes the department of prisons. (BDR 16-198)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: Yes.



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to the punishment of crime; establishing the department of prisons; providing for its organization, administration, powers, duties and functions; providing for the transportation, transfer, custody, care, education and employment of offenders; providing for credits on the term of imprisonment; providing for the release of offenders; providing for restitution by convicted offenders; providing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

1 SECTION 1. Chapter 209 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 51.5, inclusive, of this act.

3 SEC. 2. *As used in this chapter, unless the context otherwise requires,*  
4 *the terms defined in sections 3 to 10, inclusive, of this act have the mean-*  
5 *ings ascribed to them in those sections.*

6 SEC. 3. *"Board" means the board of state prison commissioners as*  
7 *defined by section 21 of article 5 of the Nevada constitution.*

8 SEC. 4. *"Classification" means the process of individual case evalua-*  
9 *tion to determine the custody and program needs of the individual*  
10 *offender.*

11 SEC. 5. *"Custody" means the level of security restrictions imposed*  
12 *on an offender by a classification committee.*

13 SEC. 6. *"Department" means the department of prisons.*

14 SEC. 7. *"Director" means the director of the department of prisons.*

15 SEC. 8. *"Institution" means a prison, community correctional center,*  
16 *or other facility operated by the department for the custody, care and*  
17 *training of offenders.*

18 SEC. 9. *"Offender" means any person convicted of a felony under*  
19 *the laws of this state and sentenced to imprisonment in the state prison.*

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
FEBRUARY 28, 1977

The Meeting was called to order at 8:00 A. M.

Senator Floyd R. Lamb was in the chair.

PRESENT: Senator Floyd R. Lamb, Chairman  
Senator James I. Gibson, Vice-Chairman  
Senator Eugene V. Echols  
Senator Norman D. Glaser  
Senator Norman Ty Hilbrecht  
Senator Thomas R. C. Wilson  
Senator C. Clifton Young

OTHERS: Charles L. Wolff, Jr., Warden, Nevada State Prison  
Michael L. Medema, Business Manager, Prison  
Ronald W. Sparks, Chief Deputy, Fiscal Analyst  
Howard Barrett, Budget Director  
Judy Matteucci, Budget  
Cy Ryan, UPI

Mr. Barrett explained that the prison budget is now broken down into 5 separate budgets. Senator Lamb asked the warden to speak. Mr. Wolff said he would just make a few introductory remarks and let Mr. Medema answer questions in detail as to the budgets.

Mr. Wolff said this is the budget which has been recommended by the Governor. It represents the needs of the system; it is austere in the effect that it contains the operating needs which are felt to be necessary for the system during the next two years. Mr. Medema gave each of the Senators a memo on the budget presentation.

Mr. Wolff explained that they were trying to provide additional facilities for proper housing for the inmates; develop and expand the work and training programs and, as much as possible, to bring back the work ethic into the institutional setting. They wanted to develop physical and administrative responsibilities and controls in all of the institutions incorporated under the present system and as much as possible to prepare the inmates for their return to society.

The budget represents 5 areas:

1. The Directors Office
2. Nevada State Prison
3. Northern Nevada Correctional Center
4. Nevada Womens Correctional Center
5. Southern Nevada Correctional Center

The overall budget is looking at an increase in the population within the prison system. That has occurred now and is greater than was initially anticipated. He referred to the breakdowns on page 2 of the memo giving statistics on this. The capital improvement program is also outlined in detail on page 2 of the memo.

Mr. Wolff stated that they wanted to involve themselves in projects that have meaningful results. Some of these projects are listed on page 3, and the details of the 5 budget areas are listed on pages 4 and 5. Mr. Wolff said he thought it best if Mr. Medema reviewed the budgets and answered any questions the Committee might have, unless they had questions they would like to direct to him.

OFFICE OF THE DIRECTOR - NEVADA PRISONS: Due to expanding areas of responsibilities, including widening geographic areas, it is recommended the Nevada State Prison's accounting maintenance be broken down by institution to provide closer control and supervision over each institution's budget.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
FEBRUARY 28, 1977  
PAGE FIVE

NEVADA WOMEN'S CORRECTIONAL CENTER: Mr. Medema went over the budget and said there was not much for the ladies to do and there was no training being given them. This was the reason they wanted to hire two teachers, on a part time basis. One in the business type training and the other in the home economics field. He said they needed more staffing in the control center of the institution. Some women who live in the cottages work in state offices in town doing clerical work. In answer to a question, Mr. Wolff said that women were more responsive to instruction and change and they seemed to benefit more from a correctional experience than men do.

Senator Lamb asked if there was a trend to parole people to lessen the burden on the institutions. Mr. Wolff said he had not seen any indication of this.

Senator Young wondered what kind of capital improvement program had to be considered in the near future. Mr. Wolff said he could not even guess, they would have to look at it during this year and look at the situation a year from now. He cited legislation being introduced that he felt was significant that could have a specific impact on the prison population.

Senator Glaser asked how many were on death row. Mr. Wolff said three, but the law is in jeopardy so he did not feel there was anybody there right now. They would wait until the Attorney General's office said they were still on death row.

Senator Lamb directed the Committee's attention to S. B. 116. Mr. Wolff stated that the intent of the bill was to provide a more effective, organizational structure in the administration of the correctional system. It places increased emphasis on the integrated operation linked to a variety of classification requirements and programs and the need for a coherent and consistent administrative and legal frame work to cope with the demands that are placed upon the correctional institutions today. It brings into perspective some of the things recommended by the legislative audit and other things that are just good sound organizational steps to run a correctional system. There are four fundamental areas. The obligation to protect the public by providing institutional confinement and care and training. To provide persons in correctional institutions with adequate educational and vocational counseling and training in other services so they are prepared to be placed effectively back into the community and earn a livelihood. Upgrading of the correctional institution in services really deserves a priority consideration at the present time because of the fact of the population problems confronting prison authorities. And hopefully through good programming it will be possible to impact more of the youthful first offenders into preventing them from going into careers of crime. The correctional institutions services should be diversified and programmed to personnel, to facilitate individual custody care and training and to meet the needs of the major portion of the population. It also takes in some refinement of putting safe guards into the areas of accounting and fiscal control throughout the institutions and administrative offices. It consolidates a number of things.

Questions followed on the bill. Senators Hilbrecht and Wilson were concerned with some of the language in the bill. They recognized that it was not in the province of the budget area but they felt it should be reviewed by the Judiciary Committee. Senator Lamb said they could refer the bill to the Judiciary. Senator Young suggested that they read the bill in detail. Mr. Wolff said as he understood the bill, there were no substantial changes, it was just putting it all together; so in terms of fact there is now a Department of Prisons instead of the Nevada State Prison.



SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
FEBRUARY 28, 1977  
PAGE SIX

It refines the terminology and it sets up a couple of areas refining the department's accounting. It incorporates legislation introduced at the last Legislature. This was voluminous and it has been refined down. He said he felt it was a good bill and refines a lot of areas. It streamlines the Department in terms of being able to have a good fiscal approach to what needs to be done.

General questions on the bill followed.

S. B. 116: Establishes the Department of Prisons. Senator Young moved that the Committee refer the bill to the Judiciary; Senator Hilbrecht seconded and the motion passed.

OFFICE OF DIRECTOR - NEVADA PRISONS BUDGET: Senator Young moved the Committee approve the budget; Senator Wilson seconded and the motion passed.

NEVADA STATE PRISON BUDGET: Senator Wilson moved that this budget be approved; Senator Young seconded and the motion passed.

NORTHERN NEVADA CORRECTIONAL CENTER BUDGET: Senator Young moved the budget be approved and Senator Hilbrecht seconded. The motion passed.


SOUTHERN NEVADA CORRECTIONAL CENTER BUDGET: Senator Glaser moved that the budget be approved; Senator Hilbrecht seconded and the motion passed.

SOUTHERN NEVADA PRE-RELEASE CENTER BUDGET: Senator Hilbrecht moved the budget be approved; Senator Wilson seconded and the motion passed.

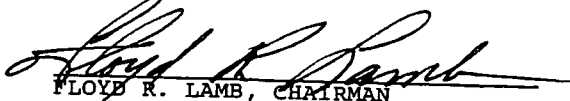
NEVADA WOMEN'S CORRECTIONAL CENTER BUDGET: Senator Glaser asked what the number of correctional officers requested in this budget was based on. Mr. Barrett said it was based on the ratio of 1.6 for staffing. Senator Glaser moved that the number of new correctional officers be reduced from 4 to 2. Senator Young seconded the amendment and the motion passed. Senator Glaser moved for approval of the budget as amended; Senator Echols seconded and the motion passed. Senator Lamb announced that the meeting scheduled for later in the day at 12:00 noon would have to be postponed until 1:00 P. M. Senators Young and Wilson said they would have to leave at 1:30 P. M. Senator Lamb said he thought they could finish the business in half an hour. Senator Lamb reminded the Committee that they were scheduled to go to Lahontan at 12:30 on Tuesday. He also announced that the Finance Committee would meet at 8:00 A. M. on Friday as there would be a quorum available. The meeting could be scheduled from 8:00 A. M. to 11:00 A. M.

The meeting adjourned at 10:00 A. M.

RESPECTFULLY SUBMITTED:

  
MURIEL P. MOONEY, SECRETARY

APPROVED:

  
FLOYD R. LAMB, CHAIRMAN

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 15, 1977

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

PRESENT:

Senator Close  
Senator Bryan  
Senator Dodge  
Senator Foote  
Senator Sheerin  
Senator Gojack  
Senator Ashworth

ABSENT:

SB 116 Establishes the Department of Prisons.

Eugene A. Coughlin, Training Officer, Nevada State Prison appeared at the request of A. A. Campos, Chief Parole and Probation Officer, in support of this measure.

Following a brief discussion, Senator Gojack requested that Mr. Coughlin furnish the Committee with a copy of the memorandum submitted to the Human Resources and Facilities Committee which outlines in detail exactly what this bill accomplishes.

Mr. Coughlin will return with that information at a later date. No action was taken at this time.

SB 162 Revises law on compensation for victims of crime.

Maynard R. Yasmer, Chief of Staff Services, Rehabilitation Division of Human Resources testified in support of this bill. He stated that the Nevada Rehabilitation Division provides services to disabled persons towards the achievement of vocational goals. Victims of crime are only eligible for rehabilitation services under federal regulations if vocational goal objectives are possible or practicable. Their concern was for persons who did not fall in this category such as the very young, who cannot wait until they are in high school and be picked up under another federal program; the elderly; and the housewife who wishes to continue as a housewife. He also expressed concern over the inequities in services granted to the offender vs. the victim. He cited the Governor's proposed budget which grants over \$30 million to services for the offender and practically nothing to their victims, as an example.

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 24, 1977

The meeting was called to order at 8:10 a.m. Senator Close was in the chair.

PRESENT: Senator Close  
Senator Bryan  
Senator Ashworth  
Senator Dodge  
Senator Foote  
Senator Gojack  
Senator Sheerin

ABSENT: None

AB 338 Permits dedicated school lands to be reconveyed without cost to dedicator.

Bob Price, Assemblyman District 17 stated that the reason for this bill came to light because of a parcel of 5 acres between his district and Mr. Demers district. In 1950, as part of what was then a requirement placed upon developments to dedicate certain property to schools. This 5 acre parcel had been dedicated to the school district when it was free of cost. Somehow, the property was sold to various people and at this point in time, there are 8 different lots with houses, trailers and some corrals. Somehow the dedication was made but never recorded. No one ever took deeds or so forth. In 1961 the law was changed so that when property was dedicated to a school they would actually pay for the property. All this happened before the Clark County school district was in existence, so it was whatever school board or district happened to be in that area at that time. These properties changed hands many times and all of a sudden a young fireman bought a piece of property, built himself a home and was going to sell it again. Lawyers Title happened to catch the cloud on the thing. When everyone got together with the school district, the school district did not want the property as it is too small for anything they want now. But under existing law the only way they can dispose of any property they don't want, is to put it up for auction. His understanding is that there are also some other parcels from the old days, 20 or so years ago, that might fall into the same thing. The people have been paying taxes on the property, as if it were their own and it has been sold and resold. This bill attempts to address the problem that where there are in fact some of these parcels of land around, the property can be conveyed back to the original owner or their successors. And this would only affect land in these situations before the 1961 law.

Senator Dodge stated he felt that they should reword the bill

SB 116 Establishes the Department of Prisons.

Warden Charles Wolff, Nevada State Prison stated that this bill provides an organization structure which is essential to effective administration of the correctional system. It is growing and going to continue to increase the functions and responsibilities. Basically this bill does this. It addresses the major issues of policy structure, accountability and operations of Nevada State Prisons and seeks to provide a more effective approach. He submitted in writing the objectives (see exhibit A). He also submitted a letter which designated certain changes that they wished made (see exhibit B).

AB 12

Mike Fondi, District Attorney for Carson City stated he was representing the Nevada District Attorneys Association. He feels generally this is a good piece of legislation, but there are a couple of things he would like to point out. First, it has been amended from the way it originally started out and they are satisfied with the punishment terms that appear in the amendment. It does give the trial court some discretion in sentencing when a firearm is used, to anywhere from life to a minimum of 5 years. The problem is where it states "any person who uses a firearm or deadly weapon in commission of a crime". It is a misdemeanor to discharge a firearm under certain sections of our law and this would make this person subject to a possible penalty of 5 years in prison. He feels that the term crime should be changed to felony. Also under this bill you could end up with a lessor sentence. For instance a person who commits a burglary can receive a punishment that is not less than 1 or more than 10 years; that person possess a firearm and maybe takes a shot at someone at the same time; that person could be punished for an additional 10 years; and would be required to be punished by an additional 10 years as the law is presently written. This amendment would provide some discretion, which would permit the trial court under the circumstances that are before him to provide for a penalty of 5 years or anything in between. The other point he wanted to bring out is that there is another bill AB 381, that provides for a penalty for possession. It simply added the word in there "any person who possess or uses a firearm or other deadly weapon in commission of a crime".

Senator Bryan stated that he had a bill that made it mandatory rather than discretionary. He created a new classification of robbery. The category of armed robbery, and for that crime there would be a mandatory prison term. All other robberies would be robbery in the second degree.

Mr. Fondi stated that Larry Hicks had indicated a problem that he had experienced in his jurisdiction. Some people were caught in the process of committing a burglary, they were all armed, but the way they were swooped down upon they didn't have an opportunity to use the weapons that they had

arm of the justice court. Another concern is that historically great responsibilities have been placed upon the sheriff or his deputies or police officers and they have properly selected and trained for their responsibility and there are specific instances throughout the state where deputy constables have been hired and there is no regard as to what their background, or training is or what their capabilities are. Additionally in trying to poll some of the sheriffs throughout the state we find in some instances, particularly in rural areas the responsibility of the constable has been designated ex-officio to the sheriff of the county and he serves the process.

Senator Schofield stated this was requested by some of his constituents. They wanted to include their deputies as peace officer. The constable that requested this has shown a great deal of growth and development. He has put them in uniform and he has cars. He has shown him where they can save a lot of money by going out and serving these subpoenas on a commission basis, and it appeared he was doing some good things. Also, he has been requiring them to go to the police academy and the FBI academy and take training.

Senator Sheerin stated that there is a statutory schedule for the deputy constables to serve subpoenas, it couldn't be on a commission basis.

Senator Close stated that this bill referred to all constables not just the area he was interested in, and that was their concern.

Senator Schofield stated that he had also spoken to the Douglas County Constable, and that they were trying to do the same thing in upgrading their area.

Senator Bryan moved indefinite postponement.  
Seconded by Senator Foote.  
Motion carried unanimously.

SB 116 Establishes the Department of Prisons.

Senator Close stated that he had some correspondence from Warden Wolff and Patrick Mullen which the Committee has, see exhibits A and B.

After some discussion the Committee decided to take out section 64.5 and go with the amendments.

Senator Foote moved amend and do pass.  
Seconded by Senator Ashworth.  
Motion carried unanimously.

# NEVADA STATE PRISONS

BOARD OF PRISON COMMISSIONERS  
MIKE O'CALLAGHAN, GOVERNOR  
ROBERT LIST, ATTORNEY GENERAL  
H. D. SWACKHAMER, SECRETARY OF STATE



CHARLES L. WOLFF, JR.  
WARDEN  
P.O. Box 807  
CARSON CITY, NEVADA 89701

NEVADA STATE PRISON  
P.O. Box 2247  
CARSON CITY, NEVADA 89701

NEVADA WOMEN'S  
CORRECTIONAL CENTER  
P.O. Box 2247  
CARSON CITY, NEVADA 89701

NORTHERN NEVADA  
CORRECTIONAL CENTER  
P.O. Box 97  
STEWART, NEVADA 89437

SOUTHERN NEVADA  
PRE-RELEASE CENTER  
301 SOUTH HIGHLAND DRIVE  
LAS VEGAS, NEVADA 89108

March 23, 1977

Senator Mel Close, Chairman  
Senate Judiciary Committee  
Nevada State Senate

Dear Senator Close and Committee Members:

Senate Bill 116 is a Prisons sponsored bill which creates a Department of Prisons. The intent of Senate Bill 116 is:

To provide a sound organizational structure essential to the effective administration of any comprehensive correctional system. Today, penologists are placing increasing emphasis on a fully integrated operation linked to a variety of classification requirements. The need for a coherent and consistent administrative and legal framework to cope with the social demands being placed upon correctional institutions is readily apparent.

The purpose or justification of SB 116 is:

SB 116 addresses major issues of policy, structure, accountability and operation of the Nevada State Prisons. It seeks to provide a more effective approach to corrections, improved standards and procedures for the custody, care, and training of prisoners, and a more systematic administrative organization. SB 116 will, in effect, consolidate and ameliorate the diffused and outdated statutes pertaining to the Nevada State Prisons.

Senate Bill 116 emphasizes four fundamental correctional tenets:

1. The State has a basic obligation to protect the public by providing institutional confinement, care and training of offenders;
2. Efforts to provide persons in correctional institutions with adequate educational, vocational, counseling, training, and other services so that they may be prepared for lawful community living are essential to the reduction of crime;

3. Upgrading of correctional institutions and services deserves priority consideration as a means of lowering the crime rate and of preventing offenders, particularly youths and first offenders, from establishing careers of crime; and

4. Correctional institutions and services should be diversified so as to facilitate individualized custody, care, and training.

Pursuant to your directive, the Attorney General's Office has provided the Committee with a detailed analysis of the substantive changes to NRS 209 made by SB 116.

I hope this information meets the needs of this Committee to consider recommending passage of Senate Bill 116.

Sincerely,



Charles L. Wolff, Jr.  
Warden  
Nevada State Prisons

CLW/mm/ln



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
CAPITOL COMPLEX  
SUPREME COURT BUILDING  
CARSON CITY 89710

ROBERT LIST  
ATTORNEY GENERAL

March 22, 1977

The Honorable Melvin D. Close, Jr.  
Chairman, Senate Judiciary Committee  
Legislative Building  
Carson City, Nevada 89710

RE: S.B. 116, SUBSTANTIVE CHANGES FROM NRS CHAPTER 209

Dear Senator Close:

On March 15, 1977, S.B. 116 was presented to your Committee. At that time, Warden Wolff was directed to compile a visual list of major changes proposed by S.B. 116 which are not included in NRS Chapter 209.

It should first be noted that this bill mainly proposes to establish a department of prisons to modernize our current prison system. The Prison Board will remain intact. However, the Warden will be designated "director" and the deputy warden position will be entitled "deputy director." Each separate institution of the Nevada State Prisons will be headed by a "superintendent." S.B. 116 interposes the above designations throughout the entire bill.

Since opinions may vary as to what is or isn't an item of substance, I have, of necessity, approached this request by chronologically listing each section in Chapter 209 and briefly mentioning how S.B. 116 deals with it. This chronology is intended only to highlight the impact of S.B. 116 on Chapter 209 and not as a thorough analysis to that end.

NRS 209.010 S.B. 116 deletes paragraphs [3] and [4] of that section.

NRS 209.020 & .030 Refer to S.B. 116 [11].

NRS 209.040 Refer to S.B. 116 [12]. Paragraph 3 of this section adds the language "contract with tax-supported, nonprofit government agencies for any labor of offenders..."



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NRS 209.050	Refer to S.B. 116 [14][8].
NRS 209.060	Refer to S.B. 116 [14][7]. Responsibility of this section is shifted from the Board to the director.
NRS 209.070	Deleted. However, see S.B. 116 [14][6].
NRS 209.080	Deleted.
NRS 209.090	Refer to S.B. 116 [14][1], [19].
NRS 209.110	Refer to S.B. 116 [13][2][d][e].
NRS 209.115	Refer to S.B. 116 [19]. Deletes the specifics of the statutory requirements. Requires Prison Board approval prior to granting perquisites to officers or employees in his charge.
NRS 209.120	Refer to S.B. 116 [16].
NRS 209.130	Refer to S.B. 116 [14][1][2].
NRS 209.133	Refer to S.B. 116 [18]. This section omits the director and deputy director from acquiring designation of "peace officers" when performing duties for the prisons.
NRS 209.135	S.B. 116 [19]. This section changes the discretions given therein from approval by the Governor to approval by the Prison Board.
NRS 209.140	Paragraph one of this section is included intact in S.B. 116 [36]. However, sections two, three, and four are eliminated.
NRS 209.150	Deleted.
NRS 209.160	Deleted.
NRS 209.170	Deleted.
NRS 209.180	Deleted.
NRS 209.190	Refer to S.B. 116 [21].

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- NRS 209.193 Refer to S.B. 116 [20]. This changes the language "prison resident improvement fund" to "special revenue fund."
- NRS 209.195 Refer to S.B. 116 [23]. This changes the language "prisoner's store fund" to "prisoner's trust fund."
- NRS 209.196 Refer to S.B. 116 [24].
- NRS 209.197 Refer to S.B. 116 [25]. This proposed section sets up a trust fund between the Warden and offenders.
- NRS 209.200 Refer to S.B. 116 [26].
- NRS 209.220 Refer to S.B. 116 [27]. The proposed bill changes the manner of payment for expenses incurred in transportation of prisoners to conform with current state law.
- NRS 209.230 Refer to S.B. 116 [27][2][4]. Proposed changes allow the transporting officers all expenses as authorized for other state employees.
- NRS 209.240 Refer to S.B. 116 [28].
- NRS 209.245 Refer to S.B. 116 [29].
- NRS 209.250 Refer to S.B. 116 [31].
- NRS 209.255 Refer to S.B. 116 [32].
- NRS 209.259 Refer to S.B. 116 [33], [30][2]. The proposed section makes it mandatory upon the director of the receiving facility to which the prisoner has been transferred to provide for his return to the prison as opposed to that responsibility resting with the director.
- NRS 209.265 Refer to S.B. 116 [34], [35].
- NRS 209.271 Refer to S.B. 116 [36]. This eliminates the relevant discretionary powers of the Warden and makes them mandatory.

NRS 209.275	Refer to S.B. 116 [40]. This section eliminates the relevant discretionary power of the Warden and makes them mandatory.
NRS 209.280	Refer to S.B. 116 [44].
NRS 209.285	Refer to S.B. 116 [45].
NRS 209.290	Refer to S.B. 116 [46].
NRS 209.300-.330	Deleted.
NRS 209.340	Deleted.
NRS 209.350	Refer to S.B. 116 [47]. This section shifts responsibility for the employment of offenders from the Board to the director. It also deletes the restrictions contained in Section 6 of the current statute.
NRS 209.360	Refer to S.B. 116 [49].
NRS 209.370	Refer to S.B. 116 [47].
NRS 209.380	Deleted.
NRS 209.390	Deleted.
NRS 209.400	Deleted.
NRS 209.411	Refer to S.B. 116 [47].
NRS 209.431	Refer to S.B. 116 [50]. Also, see S.B. 116 [51.5] in reference to unauthorized absence by an offender who is on temporary furlough constituting an escape from the prison.
NRS 209.441	Refer to S.B. 116 [41].
NRS 209.475	Refer to S.B. 116 [15].
NRS 209.480	Deleted. However, the authority to manufacture vehicle license plates still maintained by the director in S.B. 116 [47].
NRS 209.483-.495	Deleted. See NRS Chapter 213.

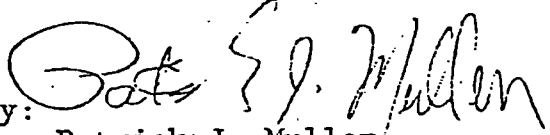
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NRS 209.497 Deleted. See NRS Chapter 213.  
NRS 209.500 Refer to S.B. 116 [51].

Sincerely,

ROBERT LIST  
Attorney General

By:

  
Patrick J. Mullen  
Deputy Attorney General  
Criminal Division

PJM:np

cc: Charles L. Wolff, Jr.  
Warden, Nevada State Prisons

4-1-77

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JOURNAL OF THE SENATE

Roll call on Senate Bill No. 44:

YEAS—17.

NAYS—Neal.

Absent—Gibson.

Not voting—Hernstadt.

Senate Bill No. 44 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 109.

Bill read third time.

The following amendment was proposed by Senator Gojack:  
1977 Amendment No. 597A.

Amend sec. 2, page 2, line 27, by deleting "his" and inserting "the".

Senator Gojack moved the adoption of the amendment.

Remarks by Senators Gojack and Hernstadt.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 116.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:

1977 Amendment No. 560A.

Amend sec. 9, page 1, line 18, by deleting "felony" and inserting "crime".

Amend sec. 18, page 3, line 21, after "The" by inserting "director, deputy director, and the".

Amend sec. 45, page 8, by deleting lines 41 through 43.

Amend sec. 45, page 8, line 44, by deleting "5." and inserting "4."

Amend sec. 46, page 9, line 11, by deleting "A for-".

Amend sec. 46, page 9, by deleting lines 12 and 13.

Amend sec. 46, page 9, line 14, by deleting "or intent."

Amend sec. 56, page 12, by deleting lines 4 and 5 and inserting "to judgment."

Amend sec. 59, page 12, by deleting lines 34 and 35 and inserting: "his place of employment or his designated quarters, such absence:

(a) Immediately terminates his enrollment in the work release program.

(b) Constitutes an escape from prison, and such offender shall be punished as provided in NRS 212.090."

Amend the bill as a whole by deleting section 61 and inserting:  
"(There is no section 61.)"

Amend the bill as a whole by deleting section 64.5.

Amend sec. 100, page 29, by deleting line 49 and inserting:

"Sec. 100. 1. NRS 209.010 to 209.070, inclusive, 209.090, 209.110, 209.120, 209.133 to 209.140, inclusive, 209.196, 209.200, 209.220, 209.240 to 209.380, inclusive, and 209.400 to 209.480, inclusive, are hereby repealed.

2. NRS 209.115, 209.130, 209.190 to 209.195, inclusive, 209.197, 209.230, 209.390 and 209.500 are hereby repealed.

3. Sections 10 to 19, inclusive, and section 22 of chapter 47, Statutes of Nevada 1977 (being Senate Bill No. 114 of the 59th session of the legislature) are hereby repealed."

Amend the bill as a whole by inserting a new section, to be designated as section 103, following section 102, to read:

"Sec. 103. Subsections 2 and 3 of section 100 of this act shall become effective at 12:01 a.m. on July 1, 1977."

Amend the title of the bill by deleting line 5 and inserting: "for the release of offenders;"

Senator Close moved the adoption of the amendment.

Remarks by Senator Close.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 140.

Bill read third time.

Roll call on Senate Bill No. 140:

YEAS—19.

NAYS—None.

Absent—Gibson.

Senate Bill No. 140 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 314.

Bill read third time.

Remarks by Senators Faiss and Neal.

Senator Faiss requested that the following remarks be entered in the Journal:

I, too, rise in support of S.B. 314. I am sure Tule Springs Park will quickly become one of the more outstanding locations in our State. It will be of benefit to residents and visitors alike as our competent and imaginative state park personnel develop the great potential of this historic and scenic location.

However, I do feel I should advise my fellow senators from Northern Nevada of my concern on one point involving this park.

A few legislative days back, those northern senators were so proud to have the ichthyosaur named as our state fossil. There is a fine example of this prehistoric fish, which we have fondly nicknamed "icky", located at another state park not far distant from where we deliberate today. Here in the foothills of the Sierra of Northern Nevada.

I have been privy to rumors which cause alarm in my heart. There have been comments to the effect that as soon as S.B. 314 is passed, my distinguished colleague, Senator Lamb, will act to remove "icky" from his or her final and proper resting place at one state park and have him or her located instead at Tule Springs.

Admittedly, he or she would quickly become the star attraction of that new state park.

I am sure this is only a rumor. I have no doubt that this distinguished senator can be persuaded to relinquish all claim and all right to "icky."

However, to allay the fears of those who traffic in rumors, and at the same time to protect my fellow senators of the north, I will at this time move that S.B. 314 be amended to the effect that Senator Lamb, and indeed, all members of the Clark County delegation, relinquish all claim, rights, interest or title to "icky" so that he or she can remain in well-deserved eternal rest in his present location.

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

S. B. 116

SENATE BILL NO. 116—COMMITTEE ON EDUCATION,  
HEALTH AND WELFARE AND STATE INSTITUTIONS

JANUARY 21, 1977

Referred to Committee on Education, Health and Welfare  
and State Institutions

SUMMARY—Establishes the department of prisons. (BDR 16-198)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to the punishment of crime; establishing the department of prisons; providing for its organization, administration, powers, duties and functions; providing for the transportation, transfer, custody, care, education and employment of offenders; providing for credits on the term of imprisonment; providing for the release of offenders; providing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

1 SECTION 1. Chapter 209 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 51.5, inclusive, of this act.

3 SEC. 2. *As used in this chapter, unless the context otherwise requires,*  
4 *the terms defined in sections 3 to 10, inclusive, of this act have the mean-*  
5 *ings ascribed to them in those sections.*

6 SEC. 3. "Board" means the board of state prison commissioners as  
7 defined by section 21 of article 5 of the Nevada constitution.

8 SEC. 4. "Classification" means the process of individual case evalua-  
9 tion to determine the custody and program needs of the individual  
10 offender.

11 SEC. 5. "Custody" means the level of security restrictions imposed  
12 on an offender by a classification committee.

13 SEC. 6. "Department" means the department of prisons.

14 SEC. 7. "Director" means the director of the department of prisons.

15 SEC. 8. "Institution" means a prison, community correctional center,  
16 or other facility operated by the department for the custody, care and  
17 training of offenders.

18 SEC. 9. "Offender" means any person convicted of a crime under  
19 the laws of this state and sentenced to imprisonment in the state prison.