

**Steve Sisolak**  
Governor

**Victoria Gonzalez**  
Executive Director



**James W. Hardesty**  
Chair, Nevada Sentencing Commission

**Chuck Callaway**  
Vice Chair, Nevada Sentencing Commission

**STATE OF NEVADA**  
**DEPARTMENT OF SENTENCING POLICY**

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**NEVADA SENTENCING COMMISSION**

**MINUTES**

**ADOPTED JUNE 24, 2020**

**Date and Time:** April 29, 2020, 9:00 AM

**Location:** VIRTUAL

**MEMBERS PRESENT**

John Arrascada  
Chuck Callaway – Vice Chair  
Chief Anne Carpenter  
Director Charles Daniels  
Chairman Christopher DeRicco  
Judge Scott Freeman  
Justice James Hardesty - Chair  
Chris Hicks  
Darin Imlay  
Christine Jones Brady  
Keith Logan  
Russell Marsh  
John McCormick  
Kimberly Mull  
Dr. Elizabeth Neighbors  
Jon Ponder  
Dr. Emily Salisbury  
Tod Story  
Assemblywoman Rochelle Nguyen

## **MEMBERS EXCUSED**

Dr. Tiffany Tyler-Garner  
Judge Michael Villani  
Assemblyman John Hambrick  
Senator Nicole Cannizzaro  
Senator Keith Pickard

## **OTHERS PRESENT**

Lori Fralick, Washoe County District Attorney  
Chris Franklin, Staff, Nevada Department of Corrections  
Dr. Michael Minev, Nevada Department of Corrections  
Jennifer Noble, Washoe County District Attorney's Office  
Barbara Pierce, Crime and Justice Institute  
Sergeant Nicole Rosales, Division of Parole and Probation  
Michael Sherlock, Nevada Commission on Peace Officer Standards and Training  
Abigail Strait, Crime and Justice Institute  
Brian E. Williams, Deputy Director of Programs, Nevada Department of Corrections

## **STAFF**

Executive Director Victoria Gonzalez  
Sherry Glick, Staff, Department of Sentencing Policy

### **1. Call to Order / Roll Call**

**Chair James W. Hardesty:** I will now call the meeting of the Sentencing Commission to order. I'd like to thank everyone for attending this morning in this virtual platform and making the many adjustments that are required to participate in this type of meeting.

ROLL CALL

### **2. Public Comment**

**Chair Hardesty:** As a reminder there are two periods of public comment for this meeting, one at the beginning of the meeting and again at the end of the meeting. I will now open the next agenda item which is the first period of public comment. On March 22<sup>nd</sup>, the Governor issued Emergency Directive 006 in response to the COVID-19 crisis. This emergency directive suspended certain requirements of the Open Meeting Law. The manner in which the public comment was handled at the meeting on April 13<sup>th</sup> and will be handled today is the result of staff working with the Attorney General's Office (AG) to ensure that this public body is in compliance with the Open Meeting Law and that emergency directive by the Governor.

Staff has emailed you a public comment that we have received up until this point. Executive Director Gonzalez will post a list of individuals who submitted public comment up until this point while the Commission silently reads the public comment that was submitted. These are labeled public comments 1-16.

Number 1 was received from Jocelyn Lee. Number 2 was received from, also from Jocelyn Lee or excuse me, pardon me, from Karen Wolfe, about forwarding a letter regarding Karen and Chuck Schaffer. A third public comment from Ms. Lee. A fourth public comment was received from Priscilla Vogel. A fifth public comment was received from Lorenia Navarro. A seventh public comment from Nicole Brown. The sixth public comment, excuse me, was from Alyn Wolf. The eighth public comment is from Darren Scheidle. The ninth public comment is from Kate Berry, enclosing a letter from the Federal Public Defender's Office. And a tenth public comment is from Laura Martin. And the 11th public comment is from Ernest Bailey. And for the record, the twelfth public comment is from Mercedes Maharis. I want to note that that public comment includes a link to a video from Kinsey Institute Indiana University Media online Collection. I won't play that, but I want to acknowledge that that is present within her comment, as well as a link to a Michigan news report. Public comment number 13 is a memo from Dayvid Figler. The 14th public comment comes from Christina Belleville. And the 16th public comment comes from a concerned citizen of Nevada, unidentified.

#### COMMISSION SILENTLY READS PUBLIC COMMENT

### **3. Approval of February 19, 2020 minutes**

**Chair Hardesty:** I will move on and open agenda item number three, approval of the February 19<sup>th</sup> minutes. Are there any edits, comments, or corrections to the February 19<sup>th</sup> minutes? May I have a motion?

JOHN ARRASCADA MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 19, 2020 MEETING.

JOHN MCCORMICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY

### **4. Report from the Executive Director of the Department of Sentencing Policy**

**Chair Hardesty:** Let me open agenda item number four then. As you'll recall from our meeting on the- in February, I have asked Director Gonzalez to provide a Director's Report at each of our Commission meetings on the activities of the Department. So, Director Gonzalez, if you'd like to proceed thank you very much for being ready and getting us going here.

**Executive Director Victoria Gonzalez:** Thank you, Chair, and good morning everyone I'm so glad everyone's able to make it. If it's acceptable to the Chair, what I would like to take the summary of our activities and the budget portion sections first and then answer any questions addressing those. And then after I present C and D individually, after each one of those, I'll take questions, because I think the questions will be specific to each of those sections.

As the Commission may recall, the Department of Sentencing Policy was temporarily housed in the Governor's Finance Office (GFO) until we could secure affordable and available office space. At our meeting back on February 19<sup>th</sup>, I informed the Commission that we secured space at 625 Fairview Drive in Suite 121. We moved into our office on March 9<sup>th</sup> in anticipation of receiving furniture and having services set up during the following weeks.

As we all know, the social distancing policy began around March 16<sup>th</sup> and so that halted all of our efforts to get settled into our office. Even though we had physically moved into the office, we did not have

furniture and we did not have all our services. And so, this resulted in either we have to wait for some things or a lengthy turnaround time for each of the services. We appreciate everyone's patience and support as we are trying to get the work done that is not only in front of us because of AB 236, but because of the current situation as well.

We recently had our phones installed last week, so we were very excited about that progress and we just got a working printer this week. We still do not have furniture. Ms. Glick has donated some folding tables for us to use as our desks and that is working just fine. We are enjoying the environment of feeling like a startup department.

We knew we were going to be facing some challenges by starting a brand-new department, but this existing crisis has created some new challenges that are exceptional. But we appreciate your patience as we work through these and keep you in constant communication and I can't wait to see what progress we have made when I see you again in July.

As you know, the website for the Department and the Commission is up and running at [sentencing.nv.gov](http://sentencing.nv.gov). The website is where the meeting agenda and materials will be posted. Because the Commission is no longer a legislative body, all of the materials and the agenda will be posted on our website now and no longer on the legislature's website. However, we intend to put a link to the legislative website so that those who are looking at the genesis of the Commission to keep up to date with the materials and activities from the previous interim will have a direct link to that. We are looking forward to adding to the website more and providing more content and look forward to ensuring that the website is another valuable criminal justice policy resource in the state.

Next, I want to update the Commission on the establishment of the Nevada Local Justice Reinvestment Coordinating Council. At our meeting on February 19<sup>th</sup>, the Commission approved for me to take the steps necessary in order to establish this council. As you may recall, the Council is comprised of a representative from each county in this state and two representatives from Clark County and Washoe County.

In an effort to learn more about the counties, I met with the Nevada Association of Counties to coordinate efforts not only to inform the counties, but also as a way to invite the counties to appoint their representatives to the Council. The Executive Director of the Nevada Association of Counties (NACO) was very gracious and supportive and recommended that I be put on an agenda for a board meeting where I could make a presentation and extend that invitation to the counties to appoint their representatives. I had planned to do that presentation at the meeting in April. Obviously, the situation has changed they have not been meeting as they usually do. I am hoping at the July meeting I'll have some more information about the progress we've made in getting the Council established.

The last item I want to mention as far as the summary of our activities is, I wanted to inform the Commission regarding the amount of mail that we receive from incarcerated persons. To date we have received 60 letters from across this state and from Arizona. As you know, the Nevada Department of Corrections (NDOC) is housing some inmates in Arizona.

We have not had time to review all of the mail yet, but I can generally tell you that the letters include requests for individuals and their cases, but they also include broader legislative and policy requests and recommendations. While I realize neither the Commission nor the Department is an advocate for individuals, it is my intent to keep you informed that we are receiving this mail and consult with the Commission on how you would like the Department to handle this mail.

This could involve acknowledging each letter by sending a specific or general letter. We could discuss

individual letters at a meeting, or we take some other action or response as the Commission deems appropriate. However, my intent was not to address this issue today, because we have not had time to fully review all the mail, but my intent is at our meeting in July to give you a more in-depth presentation about that mail and then start discussing possible actions you would like the Department to take.

Next, I will move on to the budget component of my report. Those of you who are associated with state agencies know that budget kickoff was held on February 27<sup>th</sup>. The kickoff initiates the budget building process for state agencies in the upcoming session. There are a variety of activities and deadlines that will keep us very busy for the next several months, along with establishing the department and carrying out the activities of the Commission. I will have more information regarding budget building at the meeting in July.

More importantly, I would like to address how the COVID-19 crisis is impacting the budget of the Department of Sentencing Policy. As you know, the State is in need of financial support and adjustments due to certain shutdowns in response to the crisis. Specifically, on March 17<sup>th</sup>, the Governor instituted a hiring freeze and limited spending to essential purchases in state agencies. As the Commission may recall, the Department of Sentencing Policy was appropriated four staff, which includes an Executive Director, a Staff Attorney, an Administrative Assistant IV and an Administrative Assistant II.

As of March 17<sup>th</sup>, the Department had only filled two of those positions. Because we did not have proper office space, our intent was, as soon as we moved into our office space, to begin recruitment for those other two positions. With the hiring freeze in place, we are no longer able to recruit or hire for those two other positions.

Additionally, on April 3<sup>rd</sup>, the Governor asked each Department to make certain cuts to their budgets to begin the budget reserves process. Because the Department had two vacant positions, those salary savings were used to contribute our designated portion of 4% to budget cuts for fiscal year '20. However, in order to meet the requirements to cut 14% from our budget in fiscal year '21, I had to make a decision about what to cut in order to meet that 14%.

I made the difficult decision to leave the staff attorney position vacant until January 2021 in order to meet that 14% cut. I will keep the Commission updated if there are additional developments related to budget cuts. In the meantime, we will continue to work on building our budget for the upcoming biennium and look forward to bringing on our staff attorney around the time the upcoming legislative session begins. We will also begin recruitment for the Administrative Assistant II position as soon as the hiring freeze is lifted.

The last thing I would like to note related to the budget of the Department are the deadlines for Bill Draft Requests (BDR). The Department is allocated one non-budgetary BDR which is often referred to as a policy BDR which is due May 20<sup>th</sup>. And then we have a budgetary BDR, which is anything that will impact the budget of the Commission or the Department which is due September 1. I would like to have recommendations and approval from this Commission before submitting any BDRs. However, due to the crisis, the Commission has not been able to properly meet and vet any recommendation for the policy BDR.

I requested an extension of the May 20<sup>th</sup> deadline from GFO. As of this date, I have not received a denial or approval of this request. However, because we are a new Department and the Commission is newly established in the Executive Branch, I do not see a pressing need for a policy BDR right now. I think as the Department and the Commission get up and running at full strength, we would be in a better position to vet a recommendation for the 2023 legislative session.

I plan to revisit this and the budgetary BDR in more detail at the July meeting as well. I know we're putting off a lot until then, but we have a lot to do today as well. However, I would be willing to proceed in whatever manner the Commission would prefer.

At this time, I'd be happy to answer any questions about either the summary of that activities, the budgetary issues of the Department or anything else I presented so far.

**Chair Hardesty:** Do any Commissioners have any questions for the Director on her report up to this point?

**Jon Ponder:** The letters that have been received, you said the 60 or so that have come in from inmates, that there's going to be a follow-up to that to get addressed by the Commission and was it June or July?

**Director Gonzalez:** Yes, July.

**Mr. Ponder:** What I would like to suggest is that, if we could send letters back to the inmates to just acknowledge that they've been received and then let them know the next steps of it. So that they won't be in limbo to get those questions answered in July.

**Chair Hardesty:** It's a good suggestion we will have the Director do that.

**Chair Hardesty:** I'll just observe on the budget issue, my deep concern about the Commission's ability to produce the statutorily mandated reports operating with just Executive Director Gonzalez and Ms. Glick, I think, and no attorney. I think it's important that we seek exceptions so that we can fill one of those positions at least and I'm open to and would entertain a motion that the Commission to request that kind of budgetary relief through our Director to the Finance Office and the Governor. I feel like this Department got caught in a timing problem and frankly given a month or so, we would have had one of those other two positions filled. But I just think it's going to be impossible for the Sentencing Commission to fulfill its obligation statutorily with just two staff members. That just doesn't make sense to me.

I would urge the Commission to think about that and entertain a motion that would have the Commission request the GFO and the Governor to provide relief. And I don't know if there's going to be a special session or not, but perhaps that can also be addressed at that time as well if they're going to be taking up budget considerations. But at least for now I'd like to get this exempted from this requirement.

**Chief Anne Carpenter:** I wanted to make a suggestion before we did the motion. Would the Commission be amenable to maybe looking at second and third-year students from our law school down here to try to at least help or have an externship or something along those lines if we can't fill that?

**Chair Hardesty:** We certainly have explored that, and we'll continue to. And there is interest from law students, to help provide that support. But my own view of the magnitude of the requirements of the report and the nature of the subject matters would make it challenging for an admitted lawyer, let alone a law student, to help. It doesn't mean they can't, for sure, and we would welcome that. I think it'd be actually wonderful opportunity for a law student or two to learn some issues surrounding the criminal justice system. So, it's a great suggestion and we are looking into that.

TOD STORY MOVED TO HAVE THE EXECUTIVE DIRECTOR AND ENGAGE WITH THE

GOVERNOR'S FINANCE OFFICE AND SEEK AN EXCEPTION TO THE BUDGET RESTRICTIONS IMPOSED ON HIRING TO ASSIST THE DEPARTMENT IN HELPING THE COMMISSION FULFILL ITS STATUTORY DUTIES

JOHN MCCORMICK SECONDED THE MOTION

MOTION PASSED UNANIMOUSLY

**Director Gonzalez:** First, I direct your attention to Nevada Revised Statute (NRS) 176.014343 which comes from AB 236 and this is the mandate for the Commission to track and assess outcomes related to certain data. We are going to be referring to this NRS a lot and I think it's helpful to have a good handle on how to navigate it.

Note in subsection 1, it says the Sentencing Commission "shall" and then if you look at Paragraph A and then on my copy it's going to be the next page and B and Paragraph C and D those are the big data pieces we have to collect. Paragraph requires that we collect data from the Department of Corrections. Paragraph B applies to the Division, which is P&P. Paragraph C is the tracking we have to do with respect to savings and reinvestment. And then Paragraph D is the information that we will be collecting from the Records, Communications and Compliance Division. This is what we are relying on and using as a guide about the data we can collect and the data we can't. And so, if you want to make connections between what I'm reporting on and what's in the statute, I put this here for your guidance.

I'll start with Department of Corrections. I want to update you on the activities in regards this data collection and provide an update on what we have done since February 19<sup>th</sup>. Working with the staff of Criminal Justice Institute (CJI) we were taking this statute and meeting with each agency or department that we need to collect data from and going over all of these data measures to determine what we can collect and what we can't.

In terms of the Nevada Department of Corrections, myself, and the staff at CJI last met with NDOC on February 25<sup>th</sup>. I will say overall, we are very encouraged after this meeting. We met with them for several hours and I've met with them a couple times since then and we were very encouraged by the amount of data we're going to be able to collect from them, which is most of it.

If we look at paragraph A or subsection 1, Paragraph A and then Subparagraph 1, 2, 3; that breaks it down. In Subparagraph 1, breaks down to prison admissions. Subparagraph 2 is in terms of parole and release. Subparagraph 3 is the actual individual sitting in prison. And we're going to be able to meet a lot of these data measures here, based on our meetings with NDOC.

I'll point out that one of the things that's required in the statute is collecting measures related to race and ethnicity. At NDOC, that is collected as one element, which we will be noting when we're putting that together in the report. A big intent of ours it to meet the agencies and departments where they are at with their data and try and reconcile the statutory requirements with what they are already reporting and then make adjustments where we can. We don't want to have to make too many adjustments either on their end or on the end of the Department, because we want to make sure the data is reliable and can be credible and the way we can do that is by using systems they already have in place instead of making demands on either the Department or our Department that we aren't really equipped to make. And so race and ethnicity is one of those where its statutorily required and so what we'll do is we will report it the way that NDOC collects it and then clarify that—that that was—it's collected together and not individually.

Another example of the data pieces that we're going to have to work around, work with NDOC a little bit more on, is mental health—the number of persons who received a clinical assessment identified with a mental health disorder or a substance use disorder upon intake. NDOC uses some information they gather at intake for classifications within NDOC and so we're going to use that in terms of reporting this data, but we're also going to continue to work with NDOC on developing methodologies that will help us drill down how much of this data we can collect and make sure that we are collecting and reporting in a way that's consistent with what they are collecting and reporting and it's still reliable and credible data.

The next thing I wanted to mention is under releases, where it says that we need to collect information related to a risk score. This is also referred to as Nevada Risk Assessment System (NRAS). Some inmates will not have a score because those inmates were incarcerated prior to the NRAS becoming used and so they haven't those have been assessed yet. However, NDOC has a plan to work through the older admissions to make sure everyone has an NDOC score and we will be able to collect that data as needed.

The last thing I wanted to mention is that we are in regular communication with NDOC. We plan to meet monthly. We plan to review the data that they have on a regular basis and as we will compare what they have with the statute and make sure what we're able to actually able to collection. At these monthly meetings we'll make adjustments as needed and then the Department of Sentencing Policy will put something together and give it back to NDOC to make sure it's a proper representation. One of the things that we agree is that we want to make sure the data is telling the same story. And that there is one source of data and there doesn't seem to be this misunderstanding as people take pieces of information and use it without the proper context. We want to work together with them to make sure that we're all on the same page with that and working together and not in opposition of each other. And so, we're looking forward to that. I really look forward to July and what we're able to report about our progress.

And as a reminder to the Commission, our plan is to have all of these agencies submit data to the Department by October 1<sup>st</sup> so that we can start putting that together and start working through preparing reports that we can have to the Commission. The Commission will see more data in late fall or early winter, but we're going to be working with the agencies and departments to get that data to us by October 1<sup>st</sup> and looking at creating a baseline. So, I'll keep you updated about that as well.

I want to mention, we went to a lot of detail at the last meeting about our updates about the data we received from Parole and Probation (P&P). Our plan was to meet in person again because there's a lot of data we are not sure that we're actually going to be able to collect and so we're trying to figure out what they can give us and where we're going to have to either make some adjustments or seek additional supports.

We had planned to meet in person, obviously we have not been able to do that yet, but we are still in contact by email and as soon as we can we're going to meet again and start looking at data in the way that we plan to look at with NDOC where we're generating reports and looking at doing some kind of trial reports to see what we're able to generate.

Next, I'll give you an update on the Records, Communication and Compliance Division and our meetings with them. As I mentioned in Subparagraph D of Paragraph A of Subsection 1 is where those requirements are. Those are very consistent with what they collect already for their report that they do in conjunction with the FBI. Again, we are very confident about most of the data we're going to be able to get from them. It's going to be very complete. The Department will have to be responsible for some calculations. The staff of CJJ is going to guide us on that so that we can have, again, reliability and

credibility moving forward, and those calculations are not going to be significant.

One of the things we want to make sure we share with the Commission in terms of this data and the Division told us is that, from the Division's perspective, whatever they give to us is complete data as they receive it from the counties. It's not uncommon for a county or other agency to neglect or fail to send data to the Division. The data will be limited to whoever actually reported that information. So, there will be gaps in information, but that's based not on the Division, but based on what the counties either were not able to send or failed to send.

So, at this point again, we're in regular communication with that division as well. The staff has been very supportive and collaborative. We keep in touch by email and they have already sent some preliminary ideas and we're communicating with them as well and so again we look to having a very positive collaboration interaction with these agencies and departments in trying to track and assess these outcomes as a result of the enactment of AB 236.

At this time, I'd be happy to answer any questions related to the data component portion of my report.

**Sheriff Keith Logan:** Have you made notations that the Uniform Crime reporting to National Incident-Based Reporting System (NIBRS) is going to be switching in the interim of all of this or our report because it is going to affect how those numbers and how your information that you can digest is going to be received. And it's kind of like changing the horse in the middle of the race.

**Director Gonzalez:** You are absolutely correct, Sheriff Logan. That what I appreciate about being able to work with the Division on as well. They gave us a history, of where they've come in terms of data and then where we're going with NIBRS and NIBRS is going to be a very exciting next step in terms of data. It's going to look different as well, like you pointed out.

We are going to be working with them as well to bridge that connection and provide context and explanation in the reports. Because one of the things we are going to be doing is taking these snapshots in time, but we've been evolving over time. And if we even go back to what Nevada Advisory Commission on the Administration of Justice (ACAJ) did back in the 2018 interim in regard to starting this activity and starting the collection of data, those collection practices have already kind of evolved and changed.

As we get into the cost avoided component next, it's a similar situation, where we're going to have to look back in time, which may have been with a different sort of methodology. We're going to look at the current time, which may be a different methodology and then looking forward to another methodology possibly in the future. So, yes, I appreciate your appreciation of that component and when we get to that point, that'll be a great point of discussion for the Commission to make sure that it makes sense to the Commission what we put in the report in explaining all these different data components. Because we want to be able to make sense to the Commission, to make sense to the public and then to be able to actually support the policy recommendations of this Commission.

Our intent is to continue to talk to them and as we present something, we'll take it to the Commission and then go back to the Division and make sure we're all on the same page. We going to have to bridge that gap between where we are now and then moving into NIBERS.

**Director Gonzalez:** Seeing no more questions, I will now direct your attention to the next agenda item we've included in your materials, which is agenda item 4D, NRS 176.01347. As Chair Hardesty mentioned, there are several reports and statements of updates that the Commission is responsible for submitting either to the Governor, to the legislature or other entities within the state. This section of

NRS includes one of them.

I mentioned this briefly at our last meeting and now I am going to go a little bit more in depth here because some of these deadlines are coming on us. What I'm going to do is point out a couple of things first in the NRS section, but the focus of my presentation today is just going to be what's in Subsection 3, to explain how we're going to approach that. I would like to work in chronological order, but I want to point out what's coming up for the Commission, so that we can be prepared for that as well. And this is not the extent of our reporting requirements right now; this is just the most pressing and we wanted to make sure we start talking about it now in preparation for the July meeting.

In Subsection 3 it says that not later than August 1<sup>st</sup> of each even-numbered year, the Commission shall prepare a report containing the projected amount of costs avoided. We are going to refer to this as the Projected Costs Avoided Report.

In Subsection 2 it says that on December 1<sup>st</sup> of each fiscal year, the Commission shall use a formula that is established from Subsection 1 and calculate costs avoided. Subsection 2 is comparing the projections the ACAJ looked at in 2018 and the actual population.

So, what we're looking at our projections. Some of you know that know that NDOC uses projections from JFA Institute to build their budgets, among other things, and will use those projections as well and ACAJ used them when developing the policy recommendations for AB 236.

The report that is due December 1<sup>st</sup> is a statement of the amount of costs avoided. We'll just be looking at what was the projection from 2018 and what is the actual population at that time. We will talk about that later but just so you know that's coming up and that's a little more straightforward and then we'll send that to the Governor.

I will now go back to Subsection 3, which is the Projected Cost Avoided Report. This is generally a comparison of projections. We're going to be comparing projections from 2018 and the updated projections. I will get into more detail that in just a minute, but I just want to say, from the from a high-level, that's what we're doing, we're comparing projections. Because part of the rationale behind making the policy recommendations that enacted AB 236 were that we were on a trajectory that our prison population was going to increase at a certain rate.

And so, we're going to look at those rates that were those projections from 2018 and see how they relate to the projections now. Every year JFA Institute puts together projections for the prison population and we're going to look at how are those projections change over time. Again, we're not looking the actual population, we're just looking at the projections. And then what we're going to do is take the difference between the old projections the new projections and then identify the difference of those and call those projected costs avoided, just as a general, from a high-level.

I'm going to go back to the section really quick and then go into what our proposed methodology is how to handle the Projected Costs Avoided Report. After we get that amount of the cost avoided, I just want to point out that in Subsection 3 in paragraphs A, B, C, D and E, the Commission needs to put together a report that includes recommendations about what to do with these costs avoided. These recommendations include what begins in Paragraph A of Subsection 3. This might mean making a recommendation for funding certain programs of reentry to NDOC. It might mean in Paragraph B, recommending funding for P&P. You can see then in C, D and E additional funding recommendations that the Commission could take on.

Paragraph C, we're going to hear about more when we hear the request for subawards from Peace

Officer Standards and Training (POST) because they have some mandates upon them because of AB 236. So, the Commission can recommend that these projected costs avoided be allocated to that program. The Commission could recommend that these costs avoided be allocated to the Housing Division. Or, in Paragraph E, you could recommend that the funds be recommended to the Coordinating Council which the Commission's going to establish. That Council is tasked with issuing grants or approving grants out to local entities. And so, that will be what we're going to do in July.

What we want to talk about first is specifically how we're going to handle the projection, which I gave you the high level and I'll just go into detail with that one more time and then get some input from the Commission.

Step 1 for determining the projection of costs avoided is to establish a baseline. And so that baseline, as I mentioned, is going to be the projections, the ACAJ used back in 2018. Step 2 will be to identify the new projections. We will be working with NDOC and coordinating when they receive those new projections from the JFA Institute and then that that will be the new projection. This report is done every August of each even-numbered year.

Each even-numbered year we'll take the projections from 2018. We'll compare it to the current projections that we are getting from NDOC. And then Step 3, we will calculate projected avoided costs. So, we will subtract the baselines from the new projections and then multiply the difference by a variable cost per prisoner. We have a variable cost from when the AB 236 policy projections were done, and we will work with NDOC to determine if that calculation needs to be updated.

Just as a note to the Commission a variable cost is the cost of increasing or decreasing a prison population by one person and this includes expenses such as food, clothing, and medical care. If you recall, the report that led to the enactment of AB 236 recommended that if certain actions were not taken, there'd be a certain cost to the state and if certain actions were taken, there'd be a certain savings to the state. Those savings were calculated using a similar variable cost as this one we're going to be using here. We want to continue to use similar methodologies as we try and determine what these projected costs avoided will be.

Then the Commission will develop recommendations based on those five items I mentioned from the statute and then the Commission will decide, based on the projected costs avoided, how would you like to recommend to the legislature and the Governor about how to reinvest that money into other either programs or departments or divisions.

I'd be happy to answer any questions the Commission has.

**Chair Hardesty:** I've spent a fair amount of time with Director Gonzalez and with CJI representatives and they've really done a great job conducting meetings with various agencies to help develop this strategy. And this routine I think is really helpful, probably requires some additional explanation at some juncture, but I think it was intended to provide the Commission with some direction at least as to what to anticipate in the next four or five, six months. The report that has me particularly concerned is the one on August 1<sup>st</sup> when we're talking about staffing limitations. I trust that that's a very glaring example of the problem that we face. Okay, are there any questions of the Director with respect to this portion of her report from Commission members?

**Vice Chair Chuck Callaway:** Director Gonzalez, I guess my question is maybe more of a philosophical one I know you have your hands very full and a lot on your plate. I know the statute is clear about what it requires in the reporting I'm talking specifically about agenda item 4D, the Cost Avoidance Report

I know the statute says that you have to report on certain things, but I'm wondering if—a concern of mine has always been and I brought it up in this Commission in the past that although we may be saving cost on the state level through decreasing prison population, we've seen in other states that are ahead of us in criminal justice reform that they've seen an increase in cost to local jails because of diversion of population to local jails. They may have seen, in some cases, an increase in cost to the court system where offenders who have been released or taken advantage of the benefits of AB 236 have subsequently reoffended and are now back in the court system again or they're potentially being re-incarcerated again and it's actually costing more money than it would have if they would have been incarcerated the first time under the old statute. I'm wondering if there is any discussion or intent about looking at and calculating those potential costs in addition to the cost avoidance the state may be benefiting from?

**Director Gonzalez:** That would be something within the realm of discussion when this report is brought to the Commission. The recommendations could include any concerns or a collateral fiscal impact, or another way to contextualize what you're talking about.

Because I know this is a concern and I've met with other individuals who expressed concerns about what is happening at the local level. While there are these mandates for state agencies and departments, there obviously is an impact at the local level. The Nevada Local Justice Reinvestment Coordinating Council is tasked with being able to administer grant funds, it's also tasked with assessing and addressing issues that are at that level, at the county level. And while we might not have that Council up and running by the time this report is put together, that Council represents that voice that needs to be considered when making these recommendations.

I think it would be appropriate, as the Commission approves, what to include in the report.

**Chair Hardesty:** Director Callaway, I wanted to supplement that point. You know, as we all know the effective date of AB 236 is July 1<sup>st</sup>, and our first report is due on August 1<sup>st</sup>. We're not going to be able to report much beyond establishing the baseline. But, I think you make a great suggestion and I think what we want to try to do to the extent we can, is canvass the sheriffs' offices and others to get their input on how you might capture cost impacts at the local level. We can include that in the framework that we're discussing. It's a good suggestion and certainly an area that we need to take a look at.

I think the courts are also important to consider and there may be consequences associated with a reduction in state costs that are assumed or picked up at the court level or jail level or other levels. So, I think this is an issue we need to pursue, and we'll need to work this into the framework. I don't see how practically speaking, we can get all of this framework in place in the July meeting for the report on August 1<sup>st</sup> but to the extent that we are still working on, I'll call it the collateral consequence impact, I think we want to at least make the point that that has to be part of the calculus and has to be the ongoing work of the Commission.

If you or others have ideas about how to develop that framework at the local level, I think we ought to explore that and get that on the table so that we can at least set that in motion. But, good point.

**Christine Jones Brady:** One of the things that we may be able to do to reduce the costs and the burden on the local jails would be to explore more transitional housing and inpatient treatment, as well as, mental health treatment. Identify places for people to be able to live and stay and get the treatment and the services they need while their cases are pending or while they are in various stages of their proceedings. And so, I don't know if the Director has some ideas about how to work towards that. I'd like to hear about it, because I think that will go a long way to alleviating the other problems with the overcrowding of the jails and the increased and the recidivism.

**Director Gonzalez:** I think that is an area that we need more ideas and resources and I think that is absolutely within the realm of our discussions. I was thinking about that as I was looking at this section and preparing for today and thinking about how it recommends here the Housing Division of the Department of Business and Industry to create transitional housing, but I think that isn't the catch-all to address this concern.

I'm looking forward to our discussion as it goes on today because I think as we're talking about potential options to respond to the existing crisis and what's on the agenda today.

I agree that's an area we need more help or we need more information and I would be happy to focus some of our resources as well as we're trying to gather all the information we need to include this report and I will put that on my list and take any recommendations from the Commission as well and I will go and explore and we can discuss that as well. And, I thank you for reminding me of that.

**Dr. Emily Salisbury:** I'd like to offer up my expertise on this knowledge and this topic on correctional treatment and rehabilitation around evidence-based corrections. You know, the fact that we can no longer have conversations about public safety in this state without talking about treatment and rehabilitation given the evidence behind it and the effectiveness. So, I'd be happy to help in whatever ways that I can as part of the Commission and elsewhere.

**John Arrascada:** It's more a comment wrapped in a question that I think the discussion that began with Chairman Callaway then Ms. Brady really signifies how important the calculus is going to be in what this Commission is going to do and that although numbers don't lie, an emphasis in a—misplaced emphasis can come out with the wrong numbers. And I think we need to be as a Commission very sensitive to what the variables are and what is factored into our calculus because the results will come out very differently depending on where the thumb is placed.

## **5. Review and Approval of Requests for Subawards**

**Chair Hardesty:** I will now move onto the next agenda item. As you'll recall, at our February meeting we spent quite a bit of time talking about the subawards available through the Bureau of Justice Assistance. As you know we approved an application process for agencies to apply for the \$350,000 that was made available from the Bureau of Justice Assistance to the State of Nevada for support to implement AB 236.

For the benefit of the public, the Commission had developed a process in which we reached out to various stakeholders and invited submissions of access to the grant money and we have received responses with respect to those. Today we're going to review the applications that we received, and I'd like to hear about each request, an overview. We've provided copies to the Commission and of course the materials regarding those requests were part of the materials that are on our website and were part of this agenda.

So, I'll ask Director Gonzalez and Ms. Barbara Pierce from CJI to provide an overview of the subaward program and updates on this funding. As you may also recall, Commission members, we were given until September 1<sup>st</sup> to expand or utilize the first \$150,000 of this money. I think we have some news on that front as well, but I'll leave it to the Director and to Ms. Pierce to share that news and that information with the Commission before we start getting into this the individual sub-awards.

**Director Gonzalez:** As Justice Hardesty said, the Bureau of Justice Assistance (BJA) provides an opportunity for states that have recently passed justice reinvestment legislation to apply for funds to

support implementation of the policies. Any agency involved in implementing AB 236 is eligible to apply for sub-award funding to help offset initial implementation costs and support sustainability.

Sub-awards are discretionary grants from the BJA for States. These funds from BJA are placed in CJI's budget and then CJI administers the grants, which is why we're in this process right now where the Commission collected these requests and then we're going through CJI and then they help and then they'll move it along to BJA.

These funds provide for development or delivery of training, technical assistance, performance measurement, key personnel and evaluation of staff or services. And then other uses as related to the support for staff, travel, purchases of equipment, development of technology, and anything else necessary to implement the policies.

I am going to turn the time over to Barbara and as we do that, I want to direct your attention to one of the first materials we included for the meeting which is the chart of the requests that we received up to date. This is a snapshot of the amount of funds that have been requested, how based on the request, if there is the statutory mandate in AB 236 base that would apply to that request and then how that calculates with what's available.

**Barbara Pierce:** I have two updates to share based on recent discussions with the Bureau of Justice Assistance. Back in February, at the meeting, I had indicated that there was \$350,000 worth of sub-award funding for the State of Nevada and that that was divided into two parts. \$150,000 for spending through September 2020 and \$200,000 available for spending October 2020 through September 2021.

Because of the challenge's states are facing and dealing with COVID-19 we recognize that that first pot of money by the end of September might be difficult. We discussed that with the Bureau of Justice Assistance and recently submitted an extension. We have every reason to believe the extension will be granted and what that means is that both \$150,000 and the \$200,000 would be available through September 2021. So, hopefully they find that helpful.

In terms of a second update, at the end of last month, we at CJI confirmed that we have \$78,000 in sub-award funding that will not be used by another state. Per the commitment we made at the February meeting after Judge Freeman's impassioned request, we requested that BJA allow us to ship these dollars over to Nevada. We received confirmation from BJA that those funds can be reallocated and so that brings the Nevada total to \$428,000.

The reason that we're able to do that is that unlike in other states, your agencies identified appropriate uses of funds very early on and so you've proven that you can actually utilize the funds. Justice Hardesty, I might tap into your memory here, but just for clarification you do not necessarily need to decide on the \$78,000 today. A separate application can be submitted to BJA at a later date for those funds.

Justice Hardesty, you had indicated that you might be interested in receiving recommendations today for the \$350,000, so we can get an initial application completed and submitted to BJA and then the agencies could be asked to submit requests for the \$78,000. Justice Hardesty, is that still the plan?

**Chair Hardesty:** Well, I'd like to put all of this before the Commission, but I wanted them to have the full knowledge of the updates of what's available or potentially available to the Commission when they're thinking about these sub-award requests. It is possible and I am not sure, but it is possible that agencies might need more time. Those who didn't submit applications could submit an application. So, that's something that we may want to take into account.

The Commission may ask questions of agencies who did submit, if those can be modified or pared down depending upon certain issues that arise as a result of the requests that were made. I think this is all part of the vetting process the Commission needs to go through. Commission, I am hopeful that we take action with respect to the requests we have received today, whether it's in full or in part so we can get those before CJI and get those processed so that people can count on them and we'll know relatively soon whether those awards have been—are in the in the funding mix so that people can count on that effort as we start to really work through the data requirements that these various agencies are trying to satisfy along with other demands.

**Director Gonzalez:** Are there any questions for Ms. Pierce about the information she just provided about the update?

**Judge Scott Freeman:** Thank you Ms. Pierce. That is very impressive and on behalf of the courts, I appreciate you stepping up to the plate like that. I'm very impressed and my agenda has always been having more funds for substance abuse and mental health issues, which is majority of the cases that I see on a daily basis and you answered the call. Thank you very much.

**Ms. Pierce:** You're welcome. You can thank another state, as well.

**Director Gonzalez:** I wanted to express like how grateful we are to have CJI and their staff. Obviously, we have a lot on our plate, not only with the mandates of AB 236 and so—and the things that not only this Commission is trying to understand, but then trying to implement based on the AB 236 mandates. And I really appreciate not having to also learn how to handle grants along with everything else we're trying to—and so I'm going to refer to Barbara I just decided as my grant ambassador and I really appreciate this, that that this is something that we can facilitate and then look to you and just ask what do you need from us? So, thank you.

I will direct your attention to the materials again we provided, and I apologize to those representatives who we invited to attend from the agencies. I did not provide the entirety of these materials to you. If you have access to the Internet and if you go to [sentencing.nv.gov](http://sentencing.nv.gov), you'll be able to look at the meeting materials and you'll be able to see not only your request that you submitted, but the requests of the other agencies that we will be reviewing. Also, as I mentioned, we're also going to refer to the chart that that was prepared to help be a visual comparison of those requests as we see what the total amounts are.

What I'm going to do at this time is summarize the requests. The representatives are here to answer specific questions. I'm just going to give an overview of the requests in front of you. You also have the chart as a highlight.

I will note we received four applications for funding we received a request from NDOC, P&P, POST, and the Washoe County District Attorney's Office.

We asked CJI to do an initial review of the applications. Like I said, our grant ambassador, to ensure that they are consistent with the BJA defined, applicable uses we laid out in February. They are. You have a handout with these request totals on them. We've added up the total requests and provided that to you in relation to the \$350,000. You will see the total amount of requested exceeds the \$350,000 that was available at the time the applications were submitted. We also show the total requests compared to the total with the \$78,000 factored in.

I appreciate the time it took for these agencies to put together and submit these applications. There was a concern that this money was going to go unused, as we can see happened in another state and

was not able to be used. I appreciate you taking the time and then taking advantage of these resources to help in the implementation of AB 236.

We wanted to show you this chart before we present the details of the application. Chair Hardesty asked that we separate state and local requests and indicate the related statues requiring agencies to perform new functions. This information is on that same handout. So, you can see where we pointed out the statutory requirements that are specific to the requests or if the request was associated with just generally a need for support to implement AB 236.

I will now provide a brief overview of each sub-award request and then as I mentioned, we have the representatives available here to answer any questions you may have. I'll begin with the requests from NDOC. NDOC submitted two requests that represent different options for the same purpose. So, these look very similar because they are. One is to take a contractor approach or to hire a Full-Time Employee (FTE), but they serve the same purpose. NDOC has indicated they would prefer the FTE option.

The two FTEs, it would create what the Department is calling a Quality Assurance Department to monitor and ensure compliance with justice reinvestment requirements. This is not just limited to data. We've already talked about the immense data requirements that NDOC is going to be taking on with their already existing data requirements, in addition to what they're going to be providing to this Commission and the Department pursuant to AB 236. They have a myriad of requirements as well provided in AB 236 and these employees; this Department would help monitor all of that.

The second option as I mentioned, covers the same type of staff and same roles, but by contract positions. You can see the details of what these—like I said, it's generally to help with implementation AB 236. The data is obviously a huge component, but it's also going to be anything associated with employee training and anything else that they need to help support the implementation of AB 236.

The request for the FTEs is \$274,292. The request for the contractor is \$266,493 and you can see the dates of when those will start and begin.

The representatives from NDOC, Deputy Director Williams and Mr. Franklin, would you like to add anything to what I summarized here for application?

**Deputy Director Brian Williams:** No, not at this time. We'll take whatever questions.

**Director Gonzalez:** Great. Are there any questions for the representatives from NDOC?

**John McCormick:** If the positions were to be, you know, actual NDOC employees, what's the sustainability plan to keep those going beyond the end of grant funding?

**Deputy Director Williams:** We've also requested these positions in our up and coming budget, to fill those as well. So, we are proceeding—if these get approved, by the time they expire, hopefully you'd get them approved in our next budget cycle.

**Sheriff Logan:** Is there any way to potentially cut anything from the request to reduce it for where we could fit in more with the amount of money that we have?

**Deputy Director Williams:** Yes, we also discussed that. Looking at the numbers, we calculated about an 8% over. We could definitely look at our budget to possibly have some savings as it relates to travel.

**Chris Franklin:** Some of the options that we looked at, once we noted the overage, the \$35,310.84, we looked at alternatives. We could postpone, you know, two positions in year one and start it in year two. That would reduce that savings of about \$32,619. We could also eliminate travel from year one for the Quality Assurance Manager. That would save another \$1,562. And then working with our IT department, if we were able to move the informational services costs, that would be \$5,342. So, we're looking at possibly being able to reduce with those options about \$34,660. Bring us almost in line. It would bring it down to about \$64,284 over.

**Chair Hardesty:** I want to follow up on that question. The way I understood the proposal is that it's intended to fund either contractors or positions for two years. Is that, do I understand this correctly?

**Mr. Franklin:** Yes, it would be the partial year. The remaining part of this year, through the end of the—through September. That was initially what the guidelines were that we had to try and utilizing the funding. Then year two would be the following year. When we based our cost, we based it on a four-month period instead of a [inaudible], term for year one.

**Chair Hardesty:** Right. So, my question is, under year two calculations and maybe you've addressed this, and I just didn't follow it. That year two calculation is through June 30, 2021 or is it through a period longer than that? Is it through September of 2021?

**Mr. Franklin:** It's through September 31<sup>st</sup> [sic] of 2021.

**Chair Hardesty:** Okay. So, if the legislature were to approve your budget and fund these two positions, say commencing July 1<sup>st</sup>, that would result in savings with respect to those year two salaries for each of those two positions, correct?

**Mr. Franklin:** If that's the way the system worked. Unfortunately, even during this last Legislative Session, our brand-new positions, the most current ones that we could get didn't go into effect until October 1<sup>st</sup>. The legislature takes a look at when the actual funding for that would run out, the grant funded position. Then they change the availability date of when you can hire [inaudible] to coincide with that. We had—last session, we had four positions that were grant funded in other areas and the hire date for those in the legislature was set at October 1<sup>st</sup>.

**Chair Hardesty:** Thank you for that explanation, I appreciate it. Are there any other questions from Commission members? I would make a request, if you could, gentlemen, to supplement your request with the savings calculations that you explained in response to questions from the Commission. The total number if it were employee funded under those revisions would be what amount again?

**Mr. Franklin:** Quite honestly, we looked at the contracted positions, the [inaudible] of it. For hiring those new positions. And for the Quality Assurance Manager, combine year one and year two costs would be \$144,401. Then, for the Program Officer II, combine costs of year one and year two would be \$168,750.

**Chair Hardesty:** All right, and that also adjusts for the travel?

**Mr. Franklin:** That is just for the travel, as long as we can get our information [inaudible] then we should be [inaudible].

**Chair Hardesty:** Okay. So, maybe you could take a moment, unless there are other questions from commission members and recalculate that amended request, so we can have that on the record in the

meeting, the total.

**Mr. Franklin:** You want that for the non-contracted?

**Chair Hardesty:** Yes sir, please. Excuse me, for the contracted total. See no more questions for NDOC, let's move on to the next request.

**Director Gonzalez:** Next, I will summarize the request from the Division of Parole and Probation of the Department of Public Safety. They are requesting \$75,142.84. This request includes \$36,000 for a master trainer course on the Nevada Risk Assessment System otherwise referred to as NRAS.

This will create four master trainers and an additional 24 trainers for the Division. The division had staff turnover, which include the loss of five NRAS trainers. A master trainer class would help ensure sustainability of this training within the division, because those trainers can train new staff to be trainers.

Additionally, the request includes \$39,142.84 for assessment tracking enhancements. The enhancements would allow P&P and NDOC to access assessments and track individuals through the system. It would allow for printing of assessments and bolster the assessment override feature and tracking. Sergeant, you have anything else you'd like to add

**Chair Hardesty:** Does the Commission have any questions for Sergeant Rosales?

**Dr. Salisbury:** I just have a question about whether or not, the University of Cincinnati Corrections Institute (UCCI) made any provisions to deliver master training courses online to reduce the cost? Of course we're all doing this work now as a result of the COVID-19 crisis, so I just wonder if any discussion has been, you know, if there's been any discussion with UCCI and whether or not UCCI is still sole source in terms of delivering the master training?

**Sergeant Nicole Rosales:** Due to these requests being submitted before the COVID-19 kind of shut everything down. Our initial cost assessment was based on the in-person training. So, staff from UCCI coming to Nevada, training our staff, and completing that here on-site in Las Vegas. Now with the state of the world, that is definitely something that we can reach out to see if that's a possibility to reduce that that cost of that \$36,000. The \$36,000 covered not just the training, but it was the travel and the supplies and books, and all of those things combined into one solid cost.

Then, as to your second question as far as the sole proprietor, we are still contracted with the UCCI for our NRAS validation piece, so we would just continue working with them to provide the master training class.

**Russ Marsh:** I saw on there that you had lost 125 positions and five trainers. Could you give us an idea of how that happened and what the period of time was that caused those losses?

**Sergeant Rosales:** I've been tracking the training of NRAS since its inception back in January of 2018. So, the time frame that we're looking at is from the beginning of our adoption of 2018 up until the present day. So, that would be March/April of 2020.

The 125 staff that we've lost have been through retirements, promotions, and transfers to other agencies and out of state. You know, they transfer to another police agency in another state. So, the 125 kind of encompasses all of those different scenarios for loss of employees.

**Mr. Marsh:** Okay great, it sounds like just normal attrition and turnover. Thank you.

**Sheriff Logan:** Sergeant, I know you just indicated that you haven't had the opportunity yet to speak with UCCI to determine could they do it online versus in person, but is there any other monies that you could reduce from the grant request that would help us fulfill the overage that were facing?

**Sergeant Rosales:** As on the technical aspect, the enhancements of the \$39,142.84, that was quoted directly from our Enterprise IT Services (EITS), which is to actually upgrade our current tracking and our system for entering our assessments. So, that was a high estimate from them and may be reduced slightly. But on the \$36,000 for the training from UCCI, that included their travel and training costs. So, just off the top with them, not traveling to Las Vegas that should reduce that cost, but I don't want to say that for certain until I've actually gotten an estimate from UCCI.

**Sheriff Logan:** Thank you very much. As soon as you can report. I don't want just one single agency to take the full lump from trying to reduce everything if we could if we can spread it out a little bit.

**Sergeant Rosales:** Understood.

**Tod Story:** I'm curious about continuity. Once the staff is trained through this grant award, if it is awarded, what happens beyond the life of the grant to keep people trained and able to then retrain other staff?

**Sergeant Rosales:** Yes, the master trainer position would allow the Division to continue creating our own trainers. Right now, our trainer staff, so our individuals that are approved and have completed the trainer program in order to train our staff in NRAS, they cannot create other trainers. They can create staff that are trained in NRAS, but they can't create additional trainers.

This this program for master trainer would allow for individuals and these would be statewide in the State of Nevada, it would allow these four individuals to create addition trainers within the Division so they could continue to facilitate that training protocol.

**Mr. Story:** But once the master trainer category is fulfilled, the rest of the training requirements then can be handled by those master trainers rather than having to continually bring in someone from outside in order to fulfill the program?

**Sergeant Rosales:** Yes sir, that's correct.

**Chair Hardesty:** I just have a question for Sergeant Rosales. In terms of priority I'm assuming that the tracking enhancement has a more immediate—I'm sure they're both important from a priority standpoint, but a more immediate priority would be the tracking enhancement, would that be correct?

**Sergeant Rosales:** I believe they both have equal weight at this state, just based on the number of staff we continue to lose that are trained in NRAS. The enhancements are looking more just for future—some of the enhancements are would be necessary right away or definitely appreciated right away. But one of the enhancements is adding the ability for NDOC to view and to enter assessments into the same assessment module that we have. And then also using our assessments to build and auto-populate what our case plans are going to look like that are going to be individualized to each offender.

So, those are as we're working to implement AB 236, we're working on what that template would look like and can provide that to EITS to get the ball rolling on that. Honestly, initially, our master trainer

may be the most important just because we're losing staff so quickly that are trained.

**Chair Hardesty:** So, I'm trying to develop a pragmatic approach here surrounding whether this is something that can be presented online if the Commission were to support some portions of your request we can get that in the in the queue and get it processed through CJJ and the Bureau of Justice Assistance. I'm trying to get you money, but in what sequence and I'm not sure with another meeting until July we can answer all of the questions surrounding your request. So, if one were to apportion this and grant part of it now and remainder in July after it's been revised, what sequence would you prefer? Does that make sense? Do you understand my question?

**Sergeant Rosales:** I understand and right now not knowing the ability availability for them to complete this master trainer course online with us and the likelihood that they're not going to be able to travel anytime soon to complete that training, then yes, I would request for the enhancement portion. The \$39,000 for the actual technical enhancements that we can actually begin working on now. That would take priority then.

**Chair Hardesty:** Okay, so for the Commission's benefit, we could set aside a reserve for example, for the trainer portion, maybe half or maybe \$20,000 instead of \$36,000, but revisit that subject in in July, before it's finally approved. Does that make some sense to you results for P&P?

**Sergeant Rosales:** Yes sir, that makes sense, thank you.

**Ms. Brady:** Chairman, so, if the NDOC staff will also be able to input into it, the NDOC staff will also be given that training that—some of that master training or just the one person or how will that work together? How will the P&P and NDOC coordinate with that training?

**Sergeant Rosales:** Currently the enhancement feature that NDOC would benefit from would definitely be in the technical aspect and that we have we would have one assessment module that both agencies could view and enter assessments for individuals based on their location and type of supervision at that time. So, if an individual is getting released from NDOC, the caseworkers would be able to enter the reentry tool, the re-entry NRAS for that individual. And then once they have arrived with P&P, our staff are able to go into the same assessment system, see what their assessment level, their risk level is at and then accurately place them. And then NDOC would then be able to also see our assessments if an inmate is revoked on probation and is re-entering prison.

Right now, with the Master Trainer program, that was focused mostly on P&P staff members becoming those master trainers, but I know we've worked with Mr. Franklin before. We've been in discussions in regard to case planning training and trying to get everyone, you know, into similar classes so our staff would be available and I'm sure would be amenable to train staff at NDOC as well.

**Director Gonzalez:** The next request comes from the Commission on Peace Officer Standards and Training otherwise referred to as POST. The request includes an amount for \$32,289 to fund a part-time contracted training specialist for fiscal year 2021. This contracted position is intended to lay the groundwork for a grant manager position POST plans to request in the next biennium. The training specialist responsibilities are geared towards addressing requirements in AB 236, Sections 104, 105 and 107. And then, as I noted, we provided those NRS sections in the chart that we provided in advance of the meeting.

These would include development of standardized training on crisis intervention, which is Section 107 of the bill. Model policy development to guide law enforcement agencies statewide in meeting their requirements from AB 236, Section 105. An establishment of a peer review panel, grant application

and review process and development of best practice parameters for the Behavioral Health Field Response Grant Program as provided in Section 104 of the bill.

**Director Gonzalez:** Now, I will open up for questions from the Commission for Director Sherlock.

**Sheriff Logan:** Is there any way to trim anything if we could?

**Director Michael Sherlock:** Most of the cost applies to the contracted position. I suppose in-state travel could be shaved. I believe we have that at about \$4,600. And that was for three in-state trips and one out of state, I believe. There's some room there. Currently, you know we can't travel at this point, but some of it could be trimmed.

**Sheriff Logan:** Yeah, I know that you've got it pretty, pretty tight in there. It's just a matter of, as you've been through these processes before, trying to determine where we can fit it all in. I appreciate your efforts to try to get this in there.

**Chair Hardesty:** What is POST doing with respect to the utilization of virtual training or presentations? Similar to the questions we asked Sergeant Rosales concerning online training from the UCCI.

**Director Sherlock:** As you may or may not know, POST we do utilize online training pretty extensively obviously. We have a system called NV Learn. A lot of our training programs are presented via online based on the makeup of our state [inaudible] and spread out this state is. We do utilize that online training quite extensively.

When you look at this grant request, we're specifically looking at those sections that Director Gonzalez highlighted. Sections 104, 105, 107 -- those requirements of POST are fairly specific, although some of it is the development of training and certainly a lot of that training, we would be able to deliver online. That's just a small part of what this bill asks of POST.

**Chair Hardesty:** What I was curious to know is and I get the point here, as I understand it, you're trying to develop some of the required training expected in the new state statutes and then convey that to participants. What is not clear to me is why it would be necessary for this part-time position to need travel at all under these conditions.

**Director Sherlock:** You know, as we looked at this, looked at what's going around the [inaudible] and thought that it's important, both in terms of best practice and looking at what other entities are doing in this field, particularly with behavior or health response teams. We work closely with agencies in POST in California. Some of that they're ahead of us. We just thought it might be important to have a first-hand look at what is best practice and what other entities are doing. And that's why we have that. And even within our own State we have agencies that have developed programs that would be beneficial for us to look at as we make recommendations statewide.

**Chair Hardesty:** Would this position commence July 1<sup>st</sup>? I know that's what's projected, but do you have people that are available? Do you have a trainer, a part-time person, or a contractor that you have in mind? Just how quickly could this begin if it were available and funded by July 1<sup>st</sup>, would you have somebody who could start July 1<sup>st</sup>?

**Director Sherlock:** Yeah, a lot of what we do in terms of subject matter experts and just based on a lot of different considerations, we use the contract positions where we can and we do have a fairly large pool of qualified individuals we could use.

**Chair Hardesty:** This position is going to be part, I guess, of your budget request to the legislature. If that were funded, how would this—how would that impact this this request?

**Director Sherlock:** So, as you know, we're just getting into the second year of our biennium. So, this position would buy the infrastructure for that permanent position if we're able to get that in the next biennium. That one-year period in between this final year of this biennium part-time position would buy the infrastructure for that full-time position.

**Chair Hardesty:** What amendment would you make to the amount you've requested so that that can be considered by the Commission in their deliberations today, if any?

**Director Sherlock:** Again, I think the only wiggle room as a word that we would have would be in that area of travel. And you know, if we, for instance, cut that in half we could drop that down to about [inaudible].

**Director Sherlock:** So, if we've cut travel in half, we would drop that request down to \$2,300, somewhere [inaudible] and take that same amount off the top, bringing it to somewhere around [inaudible].

**Ms. Brady:** I was actually concerned that it might not be enough with the POST and the travel. We have some of the rural areas that, I don't know whether or not, they are able to have, you know, audio-visual. Sometimes they don't have as much technology available to them as other areas, especially in the frontier areas. And so, I'm concerned that cutting the travel, that that they would still be able to get to the rural areas and that that's enough time, a part-time position. Enough to really get this training out there and solidified and available to as many law enforcement entities as possible.

**Director Sherlock:** As you may or may not know, POST, we clearly deal with the rurals quite often, adept at dealing with that. In terms of the part time position for that, we calculate that that's about 1,000 hours. We've been pretty successful [inaudible] in the past. I think they have been pretty responsive to the rurals, working with them. And that's kind of how we came up [inaudible]. Now, cutting that travel and a half would reduce the, you know, the physical contact with the rurals to a certain extent, but then we deliver training to the rurals quite often.

**Director Gonzalez:** The last request we have before the Commission is the from Washoe County District Attorney's Office. The Washoe County District Attorney's Office is requesting \$89,386 for an AB 236 Implementation Coordinator which would start mid-May and go through to the end of June 2021. This would not be a full-time County employee but would be brought in through a staffing company.

The coordinator would perform three main duties: develop training materials and presentations, attend to the enactment of AB 236 for attorneys allowing for remote access. It would work with information technology and support staff to make necessary changes to auto-generated documents such as charging documents to ensure the documents are updated with changes laid out in AB 236 and would identify data collection related to AB 236 and work with attorneys, support staff, and IT staff to develop methods for collecting data related to recidivism reduction, offense rates and diversion outcomes. The Coordinator would analyze the data and prepare visuals and other written materials, including quarterly reports and an annual report. Ms. Noble, would like to add anything?

**Jennifer Noble:** Good morning Justice Hardesty and all the Members of the Commission. Thanks for considering our application. I would just add that, we are the only applicant so far that's a county agency but what we're really envisioning and what is consistent with what we've done over the past is

taking a statewide leadership role in developing training modules for prosecutors that are going to be accessible remotely. As we all sort of struggle and to meet the challenges that COVID-19 isolation requires and as it may routinely require or intermittently require. And so, we've done that, and we regularly open up our trainings to prosecutors across the state and our criminal justice partners. That's something we would intend to keep up. And to the extent that although this is our office requesting assistance with this, in terms of the training aspect, we would intend to share that with the other criminal justice agencies and particularly the rural agencies.

Additionally, we use the same or many of the agencies, prosecutor's offices use the same criminal justice software Justware and so one of the things we want to make sure we do in coordination with our IT Department is to make sure that communication with the court is consistent, ensuring accurate data points are met and that we are developing and tracking effective methods of collecting this data related to criminal justice outcomes.

So, with that, I would just ask there are any other questions but I'm happy to comment.

**Assemblywoman Rochelle Nguyen:** You had mentioned that you use Justware, are you familiar with what other agencies like in the rurals and the other like law enforcement agencies are using for their systems and whether or not you have like integrated systems amongst you? I believe the Clark County Public Defenders use Justware, but I don't believe the Clark County District Attorneys use it and I'm just curious if you know if there's similar systems that those rural areas are using as well?

**Ms. Noble:** I think that the Carson City District Attorney's Office or in fact, I'm fairly certain, Carson City District Attorney's Office, the Douglas County DA's Office. I actually think Clark County DA, but I may be wrong about that and I think even more of our rural jurisdictions, I believe Lyon County, all use Justware software.

**Darin Imlay:** The Clark County District Attorney's Office now uses Justware, as well.

**Ms. Noble:** We are going to be identifying how we want to modify Justware's inquiries and tracking to develop data that we can share with the Commission, with others that are specific to AB 236 and specific to the inquiry as to whether or not we are getting better outcomes. That's going to take some time and some creative thinking and some thorough thinking in terms of developing those inquiries. Somebody with a background in perhaps statistics would be helpful to that. I'd also like to throw in, if I may, because I was so happy to hear that there may be additional funding available, especially when we're talking about, for example, criminal justice outcomes and reduction in recidivism rates for the changes that AB 236 makes to eligibility for diversion. One year is the period of time we've asked for someone to assist us in doing all this, but I believe that that type of change and that type of improvement is probably going to take a bit longer than that in terms of identifying. If it's possible, we would like to expand our request to a little bit more time than that. One and a half years or two years, if that's something that the Commission is going to consider, and we could certainly submit additional documentation.

**Sheriff Logan:** Since I'm a broken record on this, I'm going to ask the same of Washoe County. You guys have done the in-kind for all the office supplies and stuff like that, but is the staffing agency administrative payroll costs, is there any wiggle room or ability to reduce any of that money?

**Ms. Noble:** Okay, that is an excellent question for Lori Fralick, our Law Office Manager, and so I'm going to play a Who Wants to Be a Millionaire and ask if she could maybe be my lifeline on that question because that's right into kind of her expertise.

**Lori Fralick:** Good morning, for the record, this is Lori Fralick with the Washoe County DA's Office. And I did request three estimates from three different staffing agencies and that was the lowest cost. I will say that it does not look likely that we would be able to get somebody hired and on board by the initial date of May 18. So, I refigured and recalculated the numbers and if we did an effective July 1 date, we could reduce our request for one year full of funding to \$79,040. So, that takes it down about \$10,000, if that would help in determining the funding allocations.

**Sheriff Logan:** Every dollar does count. Thank you.

BREAK TAKEN IN MEETING

**Chair Hardesty:** I wanted to begin by clarifying the numbers, so we're dealing with the correct math. The Director asked NDOC for a clarification of their total, which is \$231,825. I don't know that any further clarification of the P&P number can be provided at this time. Although we are aware that there could be an adjustment made with respect to the training component. POST's revised number? Director Sherlock, I just want to make sure we're on the same page. What is your revised number with the reduction in travel?

**Director Sherlock:** I show it at [inaudible] if we reduce the travel.

**Chair Hardesty:** Okay, great. And then on the Washoe County District Attorney's request, I appreciated Ms. Fralick's calculation. If I pronounced your name correctly, I apologize if I didn't, but I wanted to know if you could provide another number for us, and that would be if the position commenced on October 1<sup>st</sup> rather than July 1<sup>st</sup>, what would your number be?

**Ms. Noble:** Justice Hardesty, this is Jennifer Noble. I don't know that Ms. Fralick is already on the call or is remaining on the call, but I can get that information to you very quickly and perhaps just message Director Gonzalez when I have it.

**Chair Hardesty:** Great, that'd be great. Thank you.

So, I would like to first address a question to the Commission. Do you want to include or not include the \$78,000 in our determination today or defer that until July? Because that certainly makes a difference with respect to the extent to which we would be able to fund all of these awards.

So, let's begin with that question. Because we might want to, for example, defer the training portion of P&P to July and depending upon the response we get from Ms. Noble, defer the DA's request until July. And then proceed with evaluating the NDOC request, what I'll call the assessment portion and tracking portion of the P&P request and the POST request at this time.

I'm just trying to offer a framework for our discussions so that we can make progress and get this into the hopper. The pressure on us to spend the money by September 1 is no longer present. At least that's what we believe. But that doesn't matter we could start spending this money as soon as we could get it because obviously the needs are pressing.

I personally and I fully respect the requests we've received, but I think from a priority standpoint, I think we've got to address these in the context of the statutory demands that have been placed on the agencies. And so, that's why I asked staff to include in the boxes here the statutory demands. Personally, I want to reach that the DA's request if we can because I think that that's going to be a valuable service to all of us and to the whole state. I also want to go about this a little bit at a time is

what I'm recommending to all of you, but I sure want to hear from everybody else and get other ideas and suggestions.

So, would any of you like to weigh in on how we might approach the threshold question? Do you want to consider the \$78,000 now? Which, by the way, we don't actually for sure have. We think we do. That has to be yet approved but I think Ms. Pierce is expecting that will occur, but a conservative person might say let's wait until July before we try to appropriate it.

So, my first question is, do you want to separate the \$350,000 from the \$78,000 in our consideration today? We can approach this in different ways. If people have better ideas, that's just my suggestion. Any comments from Commission members?

**Assemblywoman Nguyen:** I kind of agree with you. I think it's kind of an overwhelming task and while I'd like to be able to do it all at once, I think that your suggestion that moving some of the people that maybe it is not as pressing to the July meeting I think would be appropriate.

**Vice Chair Callaway:** Just for clarification, I believe the conversation that I had had with Director Gonzalez a while back was that agencies had to pay these costs upfront and then would be reimbursed. Is that still accurate? And if so, in regards to for example, P&P's requests that are involving training, would the agency, if it was postponed until July, still front the money up front to do what's necessary with the thought that they, with the realization they may or may not get it in July? I guess that is the question.

**Chair Hardesty:** Maybe Ms. Pierce would be in a better position to address that question. Ms. Pierce did you hear the question, or do you need it clarified?

**Ms. Pierce:** I heard the question. We cannot reimburse anything until we have a contract with whatever agency is funded.

**Chair Hardesty:** But they don't have to spend the money first before they get it, correct?

**Ms. Pierce:** What happens is, it's a reimbursement system. So, the money is expended by the agency and then they submit invoices on a regular basis to CJI for reimbursement.

**Chair Hardesty:** Yeah, but the problem we talked about before is that they don't have it in their budget. So, unless they are assured that they've got it, they can't start spending money from some part of their budget, at least I'm assuming this. That would be problematic at least for the Supreme Court. Unless you have a source that you're a sure you're guaranteed you have that reimbursement. Chief Carpenter, this is in your bailiwick. Can you spend the training money without knowing you're going to get reimbursed?

**Chief Carpenter:** That's a great question. I'm just trying to get some information from my fiscal staff. My concern is that—it was a huge concern, first of all, but now with COVID-19 and the way our budgets are looking, I don't know what money we even have to utilize anymore. So, that's a great point. Does that make sense?

**Chair Hardesty:** Yeah, it sure does. None of the state agencies know the extent to which we're going to sustain a cut. That decision hasn't been made yet, but we know it, we we've all tendered projected cuts and those projected cuts have essentially run everybody out of money. So, you don't have money to spend and then get later reimbursed. Barbara, can you weigh in on this? I mean, I don't think the

agencies can for example spend \$75,000 in P&P without knowing that they've got that reimbursement available to them.

**Ms. Pierce:** Right, I would not recommend doing that. As a former budget analyst, I definitely wouldn't recommend it. What has to happen for us to assure an agency that they have the money for a reimbursement is, the approval has to come through from BJA and then CJI has to have a contract with that agency. Until that point, we can't reimburse anything. And so, it would be probably best to not expend any money until that's in place. Once the contract is in place, that money is there for reimbursement purposes.

**Chair Hardesty:** Vice Chair Callaway, does that address your question or did you have a follow up question?

**Vice Chair Callaway:** No, Justice Hardesty. I think that addresses my question and my concern. I mean like was stated, if I'm looking at my own budget for example and I have to train officers for example on the changes coming to the law and they come into effect July, putting money out upfront for potential reimbursement when I don't know that I'm going to get reimbursed is obviously problematic. So, for me, that that impacts the whole discussion on this issue.

**Chair Hardesty:** I would like to return to the question I posed to the Commission before. Do you want to include or not include the \$78,000 at this time? With respect to the P&P budget, and to your point Chuck, I think we have to allocate the full amount that P&P is requesting, even though we might anticipate a reduction if they're able to perform that training online. But the sooner they can get that approved and get their people training because of the impending effective date of the bill is pretty important from a priority standpoint. I think we need to take that into account and probably Sergeant Rosales will have an answer from you CCI in, I don't know a week or two or whatever. But waiting until July would just postpone the training period that long—that much longer. So, I'm trying to authorize the funds with an expectation there might be a credit. Does that make sense, Sergeant?

**Sergeant Rosales:** Yes, sir and I've already reached out to my contacts with UCCI to determine if the virtual training of the master class is available for us and the cost of that.

**Chair Hardesty:** Great. So, if we do not consider the \$78,000 we have \$350,000 to appropriate and what I'm suggesting at this point is that we attempt to fund the \$231,825 for NDOC, the set-aside \$75,000, for P&P with a hope that we'll get a credit back once we get that calculated, and set aside \$29,945 for POST. I think that's right at—right close to the number; we're below \$350,000 slightly. And then we can reevaluate all of this subject again in July with the hopes that we can initiate funding for the Washoe County DA's request in July with this reduced or recalculated amount. I think it's a very valuable service that they could provide I want to figure out a way to get them some money and maybe we can also get some additional resources in the meantime. So, that's an outline. Any other comments or ideas or different suggestions?

**Sheriff Logan:** Not knowing how the reimbursement works, I know from a County's perspective how it sometimes can go—any money that comes back in sometimes does not go directly back to the agency, but rather to the county's general fund. I just would love to see that the protections are in place for the state agencies that the monies that they are going to expend or at least allow us to apply for the approval from the grant from our main agencies and I agree with you for the three and then waiting for the Washoe County.

**Chair Hardesty:** Maybe the fiscal folks with NDOC can address Sheriff Logan's comment. If this were approved, under normal circumstances, that grant money if it came in it's going to be used for that

purpose, right? You're not going to have to divert that into your general fund accounts, are you?

**Mr. Franklin:** It would be utilized specific for this purpose. It would be utilizing specifically for that budget that we created.

**Chair Hardesty:** All right, any further comments, suggestions, or questions?

**Dr. Salisbury:** This is tangentially related to funding just since it was brought up by Chief Carpenter and I know of course all the state agencies are concerned about dealing with COVID-19, particularly the public safety agencies. I'm sure many are aware of this, but the DOJ, the Department of Justice through the BJA has made \$850 million dollars available in emergency funding for public safety agencies. I believe the deadline for that, for submitting a proposal to them is at the end of May or sometime in May. Just as a heads-up in case anybody hadn't seen that. It's obviously related to the funding issue, but not quite relating the grant funding that we're talking about. I just wanted to make sure people knew about it. Thanks.

**Chair Hardesty:** Thank you for the information and the update.

In the interest of our time, the Chair would entertain a motion that we fund \$231,825 recommend to CJI and Bureau of Justice Assistance to NDOC. We fund or allocate \$75,142.84 to P&P and \$29,945 to POST. And that we defer the actions on the remaining requests until our July meeting. But I want to make clear that we're going to—I, at least, would like to see allocations or funding made to the Washoe County DA's request at some level if we can get it done. That reserves some money for that purpose, and we defer any action on the \$78,000. That would be the proposed motion.

MS. BRADY MOVED TO FUND \$231,825 TO NDOC, \$75,142.84 TO PAROLE AND PROBATION, AND \$29,945 TO POST.

DR. NEIGHBORS SECONDED THE MOTION.

MOTION UNANIMOUSLY PASSED WITH JUDGE FREEMAN ABSTAINING

**Chair Hardesty:** I'm sure that Director Gonzalez and Ms. Pierce will be working closely together with these agencies to start processing these requests as quickly as possible. And thank you, Ms. Pierce, for your assistance and your update on all of this we really appreciate CJI's support on this implementation effort. And thank you to the staff of the folks who made the request. I know that it's a challenge to put this together and we appreciate your input.

## **6. Presentation on Responses to COVID-19 Crisis by Criminal Justice Agencies in Other States**

**Chair Hardesty:** Next, I'd like to open agenda item 6. As you know, we had a fairly lengthy discussion on the SAFER Plan at our meeting on April the 13<sup>th</sup>. That discussion caused me to reach out to CJI to offer some additional input on strategies that have been undertaken in correctional facilities that relate to the safekeeping or the facility protections that might be appropriate in this environment.

CJI has done some additional research at my request and on what Departments of Correction are

doing to keep facilities and people within their institutions safe. Ms. Pierce, please proceed.

**Ms. Pierce:** As Justice Hardesty mentioned, we were asked by him and also by different states, to basically conduct a scan of what State Departments of Corrections (DOC) are doing to release some individuals and also additional measures to reduce the spread of the Coronavirus in correctional facilities.

The first handout you have focuses on how states are working to keep individuals in facilities safe, including staff. The second handout is a scan of State DOCs and what they're doing or not doing to consider people for early release, Abby Strait, on our team will provide a brief overview of the facility safety measures and then I'll cover the release section.

**Abigail Strait:** The first document you all received is entitled "Strategies for Keeping Facilities and People in Custody Safe During COVID-19." It shows what we found in a scan of how jurisdictions are modifying the operations of their jails, detention centers and prisons to respond to COVID-19.

We found 12 common practices that states are using which are listed in that document that you received. It includes examples of how those strategies are looking in practice and I'll provide a few examples from each of those strategies as a review. Before I get into that, as a note, this document, and the overview I'm about to give are not meant to be an exhaustive list of practices across the country. The jurisdictions noted in parentheses on that document you received are simply examples.

In some cases, jurisdictions—many jurisdictions are implementing a certain practice and in addition, practices are changing frequently as the COVID-19 situation evolves so details may be evolving as well. So, the document therefore isn't meant to be exhaustive but to provide examples of the wide range of approaches corrections agencies are taking.

First, I will summarize the document. The first strategy you'll see on there is developing a pandemic plan or protocols. Many DOCs have modified their existing plans for responding to the flu or other pandemics to include CDC guidance on COVID-19. And as an example, Washington state developed Person Protective Equipment (PPE) protocols for patients in isolation and for staff interactions with those patients.

The second strategy is educating staff, inmates, and the public. As an example of this, Louisiana has created educational materials for incarcerated individuals including frequently asked questions and answers about COVID-19 in an attempt to help educate people.

A third strategy is restricting movement. Several states including Arizona, Alaska and California have suspended the transfer of incarcerated people between complexes and facilities.

Fourth is reducing the cost of communication for incarcerated people. Since many facilities have suspended in-person visitation to restrict the spread of COVID-19, some facilities have waived fees for other types of communication like video calls, phone calls or mail. And as an example of that, Utah is providing ten free 15-minute phone calls to each person in prison per week.

The fifth strategy is eliminating medical co-pays for incarcerated people. There are two major strategies to implement this. Either by suspending all co-pays, and we identified 11 states doing this, or by suspending co-pays for a respiratory flu related or COVID-19 symptoms. We identified 26 states doing that strategy.

Number 6 on that document is providing services and supplies at no cost. As an example of that, Mississippi is installing hand-sanitizing stations at deck facilities. Another example, Pennsylvania is providing materials for incarcerated individuals to use to clean their cells daily.

Number 7 is screening of incarcerated people. The Bureau of Prisons, as well as several states, are screening all incarcerated people arriving at or departing from a facility according to CDC guidelines, which includes a temperature reading, inquiring about recent travel and inquiring about any contact that person may have had with people who have experienced symptoms consistent with COVID-19. Another example of that is that Ohio has been conducting mass testing at two of their facilities and testing all incarcerated people, even those who are not displaying symptoms.

Number 8 on that document is screening of staff and vendors. Again, the Bureau of Prisons, along with several other states, are screening all staff and vendors arriving at facilities according to CDC guidelines.

Number 9 is isolating and treating suspected cases of COVID-19. As an example of that practice, Minnesota created a step-down area per CDC guidance for incarcerated individuals who had COVID-19 symptoms that had since been resolved. Individuals in that circumstance will stay in that step-down area for seven days before then re-entering the general population.

Number 10 is ensuring the cleanliness of facilities and transport vehicles. As an example of that, Missouri has designated a point person at each facility to ensure adherence to a sanitizing schedule and ensure hygiene and cleaning supplies are readily available.

Number 11 is practicing social distancing while providing programming. Several states including Arizona, California and Minnesota are providing in-cell programming or distance learning. This can be provided in different ways, you know, maybe through electronic devices or printed worksheets or self-guided treatment activities.

And finally, that last charge we identified is collaborating with the National Guard for additional support. Ohio and Kansas have been working with the National Guard to provide health care operations due to staffing shortages at correctional facilities.

So, that's a very quick review of that. There are further examples on that document you received, and you feel free to let us know if there is further detail you would like on any of those practices. And with that, I'll turn it over to Barbara to review the second COVID-19 related document you received from us.

**Chair Hardesty:** Maybe before we get into that second document, if you don't mind Ms. Strait, I'd like to invite members of the Commission that may have questions about these strategies to weigh in at this point. I know that we have later in the agenda a continuing discussion of the SAFER Plan, but I wanted to add this additional research to the context of our discussions. Are there any questions of Commission members for Ms. Strait? Seeing none, we'll move on to Ms. Pierce. Thank you, Ms. Strait, for your help.

**Ms. Pierce:** The document that you received that's entitled "State Correction Systems Release Responses" shows what we found in a scan of 50 states. It's important to note that that scan was done leading up to April 22<sup>nd</sup>. It won't be any surprise to you that things within the states are changing daily and so this is not up to date as of today.

You have the document, so I'm not going to spend too much time on it, but I did want to just generally

talk about eight categories that really are encompassed within that 50-state scan. The general categories are just straight early release, compassionate release, release of individuals serving sanctions for a supervision violation, release consideration for people who are serving prison time on technical violations of supervision, furloughs, home confinement and expedited parole processes and commutation of remainder of sentences.

I'll just provide a few examples. In terms of early release, Georgia, for example, is looking at possibly releasing people who are in ongoing offenses and within 180 days of their prison sentence ending or their parole date. Maryland on the other hand, has an executive order from the Governor allowing the release of people who are eligible for release within four months, at high-risk of COVID-19 complications. It excludes sex offenders. And people must be showing no signs of COVID-19.

In terms of compassionate release, Ohio is looking at people who are over 60 who have an underlying medical condition. Arkansas is looking at nonviolent, non-sex offenders within six months of release. West Virginia and New York State are looking at possible releases of those who are in prison serving sanctions for parole violations. States like New York and Massachusetts are considering releases for people who are serving time for technical violations of supervision.

The State of Louisiana is using their furlough authority to look at two different populations. The first is a medical population. So, basically people who have an underlying health condition. They're in on nonviolent, non-sex offenses, they're within six months of release and they have proof that they have housing to go to.

The second population are state inmates who are housed in local jails. In Louisiana, more than half of the population of state inmates are held in those jails. So basically, they're looking at the population of people who have served at least six months, people whose release date is within six months, nonviolent, non-sex offenses and again, proof of housing.

The interesting part about what Louisiana is doing with these furloughs is who's making the decisions on the releases. They've formed a panel of six representatives. The Secretary of the Department of Corrections is on that. The Director of Probation and Parole, the Executive Director of the Pardon and Parole Board, a victim's advocate appointed by the Governor, the Sheriff's Association Executive Director, and the Executive Director of the DA's Association.

There are a couple other states that are looking at furloughs very differently such as West Virginia extending furloughs from—they're extending weekend furloughs to a two-week period. New Hampshire is looking at administrative home confinement for people who are medically frail. They also have to be nearing a release date. They have to have no assaults while incarcerated, no history of revocation from a previous home confinement status and they cannot have been convicted of murder, manslaughter, felony sexual assault, first and second-degree assault, robbery, escape and aggravated DUI.

In terms of expediting parole processes, some states are doing this through expediting the release of people who are in their prisons who have already been approved for parole. Some are using emergency orders or other emergency powers to expedite parole consideration for those within a certain time period of their parole eligibility dates.

And finally, in terms of commutation of sentences, New Mexico is looking to commute the remainder of sentences for people whose release date is no more than a month away. They have a parole plan in place and they're not convicted of certain offenses such as felony DUI, sex offenses and they're not serving time for domestic violence, assault on a peace officer, or offense with a firearm enhancement.

One another note on that document. The light blue shaded rows are the states that, as of the 22nd showed no indication that they were going to do any early releases or consider any. 17 states fell into that category. Just to wrap up, I covered a lot of random details, but I think it's important to note that every state started taking a very unique approach based on their needs.

They're also developing these plans based on obviously with what every state would be doing, a review of statutory authority of different agencies and entities. They're reviewing any emergency powers that agencies might have. They're using executive orders. They're definitely collaborating amongst criminal justice partners. And they're really taking a deep dive into their data, things like determining who's nearing release, what does the medically fragile population look like and data such as that.

So, with that, I'll turn it back over to the Chair.

**Chair Hardesty:** Thank you Ms. Pierce. I appreciate you taking the time to compile this for us on short notice. Are there any questions for Ms. Pierce?

**Dr. Salisbury:** Thanks so much for that information. I just had another question about the states that are releasing certain incarcerated people or going through that process. Did you all come across any specific plan for testing them for COVID-19, even if they're asymptomatic prior to their release? I've seen a number of media stories, certainly from the Federal Bureau of Prisons, where the process can be quite cumbersome in terms of trying to quarantine people before they get released, including you know if one person gets sick in the group of the quarantined inmates, then everybody has to start over. I believe a federal judge has weighed in on this. I'm wondering if you've come across any best practices in terms of, if the determination is made to release in these certain states, what is the plan?

**Ms. Pierce:** Maryland is one example. Their release mechanisms include that testing prior to release. I believe it's testing. I'll have to verify that. They're not going to release anyone with symptoms.

Yes, they are either screening or testing people. There's also, I forget which state it is, it might be Maryland again, but when they're looking at what housing options somebody has when they're considering release, they're determining when—at least one state is determining whether that housing would allow a space for a 14-day quarantine.

**Dr. Salisbury:** Thank you and I believe there are some states that are using hotels potentially housing for people who are incarcerated, who are releasing. I think Connecticut may be one of those states. Did you see any of that in your search?

**Ms. Pierce:** That did not come up necessarily in this search, but I do recall reading articles where certain jurisdictions are considering the use of hotels. I believe New York City was looking at that option.

**Dr. Salisbury:** Okay, thank you.

**Chris Hicks:** Thank you. Ms. Pierce, I just have a couple questions. Are you guys taking any particular position or is this just kind of a fact-finding let's present the Commission what different states are doing?

**Ms. Pierce:** We have no stance on this. This is literally a fact-finding thing. It's to show—and the other state that requested this information also was interested in literally seeing like, what factors for example, states are considering.

**Chair Hardesty:** This is a research project, Mr. Hicks, I asked them to do.

**Mr. Hicks:** Thank you. Are you familiar with the SAFER Plan that's been mentioned?

**Ms. Pierce:** Yeah. That was covered in the last meeting. I don't have it sitting in front of me though.

**Mr. Hicks:** That's okay. I'll move on from that. What's kind of been going on in my head, I'm interested in the position of CJJ on this because we've worked so well with you, the State of Nevada, and the Sentencing Commission for the last two years. For me to paraphrase, please correct me if I'm wrong, but largely the philosophy of what you came in to help us with and what AB 236 was in place to fix, is this kind of reinvestment idea. Essentially, withdrawing money from prison capacity and using it in better services that will help reduce recidivism. Is that a fair, accurate depiction, in a very general sense of what we're trying to do in Nevada?

**Ms. Pierce:** Basically, yes. When the State commits to doing justice reinvestment, they are committing to a policy development process and implementation process and some type of reinvestment. We are the provider to help with that.

**Mr. Hicks:** Thank you. I recall one statistic that you guys had discovered when you were doing the fact-finding of our prison population and that was that nearly 30% of Nevada prison discharges fail in the community within three years of release. It's in essence recidivism, a very high recidivism rate, is that fair?

**Ms. Pierce:** I'm not familiar with that statistic. I don't have it right here, but I trust that you pulled it from a report that was done.

**Mr. Hicks:** I did, I pulled it right from your website.

**Ms. Pierce:** Excellent, thank you.

**Mr. Hicks:** Based on your experience, your training, your education, what are the primary causes of recidivism? What you find, for example, here you found lack of transitional housing, lack of reentry programs, lack of behavioral counseling, lack of substance abuse counseling, things of that manner.

**Ms. Pierce:** Right and then there's also just the other types of risk factors that are found on the NRAS, for example, that are characteristics of the individual. Such as, you know, there's a lot of things that lead to risk to reoffend. There are societal factors obviously, but then there's also that focus on the risk factors.

**Mr. Hicks:** So, what I'm concerned about and others are concerned about, it was brought up in our last meeting is, when we look at Nevada right now, we have a housing crisis that's been around for a long time. We have a very large homeless population and now we have 22% of our workforce applying for unemployment. Our budgets, our state budgets and county budgets are being drastically reduced, in turn services for arrestees or parolees or inmates could get drastically cut, too. We know what happens to the prison budget when the state budget gets slashed.

What I'm just interested in is, does CJJ have any concerns about, for example, releasing hundreds of inmates early into a system that one, can't support them and into a state that two, has all these risk factors. No reentry programs, homelessness, unemployment, housing crisis and what that—to me, it's setting them up for failure. I've heard the word compassionate release, to me it's uncompassionate

release, because what are they to do? And then, in turn, the next step is then what happens to public safety?

I know CJI is very reasoned in their reinvestment philosophies and I've always appreciated that but my question is, you guys had to have discussed this, what is the concern about a mass release of people into a system that can't support them? And in turn, into a state that doesn't have the resources right now to help them?

**Ms. Pierce:** All right, there was a lot there, but to me, I'll just say from the implementation perspective in terms of assisting the Commission and others in the state on implementation, to me, I have a lot of concerns related to COVID-19 that are definitely related to economic concerns.

I think it's the job of the Commission to be talking this through. I don't know that our opinion or stance matters here, to be honest with you. And, I think the implementation date is coming up July 1<sup>st</sup> and I feel like there are huge discussions to be had about what is the state going to invest in moving forward. And yes, there's an economic crisis coming. We are here. I don't really feel like it's our role as an implementation technical assistance provider to sort of weigh in. There are always concerns about releasing people. There are also concerns about keeping people in prison for different reasons. It's kind of a non-answer but I don't feel like it's our role to be sort of providing that.

**Mr. Hicks:** Thank you. Of the 50 states you looked at, how many states had no outbreaks in their prisons during—when you did this evaluation?

**Ms. Pierce:** We did not have time to cross-reference the extent of the COVID-19 issue inside facilities and compare it to these practices.

**Mr. Imlay:** I have a couple of comments. One is the issue that we are dealing with right now is COVID-19 and trying to minimize the potential for an outbreak in the prison. Last time we met; the question was asked how many inmates have actually been tested for COVID-19; the answer was zero. And so, at this point, I don't know if that's changed but we don't know how many people in NDOC have COVID-19. Whether there's any or whether there's 100, we have no idea, but that's one of the issues we're addressing right now.

We can't keep people in prison just because of an economic downturn. If we're looking at the SAFER Plan, many of the categories that the people are falling into are people that have already been granted parole and are just waiting for release or people that have a plan in place or they can get a plan in place.

And so, we are not talking about violent offenders at all. That is not even on the table, but we're talking about people that have the ability to have a plan in place or are ready to have a plan in place to deal with COVID-19 right now. Some of the other questions dealt with a systemic issue that we're having with people being paroled and not having resources. That's a separate issue from what we are dealing with right now with how Nevada is going to respond to COVID-19 and the potential spread.

And so, I completely stand by the SAFER Plan. I think it's common sense. I think it's realistic in light of what we're facing to prevent an outbreak. Because like I said, we don't know whether there's an outbreak going on now, because last information we received zero inmates have been tested. Thank you.

**Chair Hardesty:** I know that people have varying viewpoints on all of this. My objective in having the

presentation from CJI was to take advantage of their resources to do a summary and it was quick, they only had a week or two week, week and a half turnaround to be able to do this for us, but I wanted this Commission to be able to get some information from other jurisdictions. I also think that our decisions need to be fact-based and the facts are changing.

## **7. Discussion and Possible Action on Recommendations Concerning Potential Inmate Releases as Response to COVID-19 Crisis**

**Chair Hardesty:** Let us now move to item 7A. On April 13<sup>th</sup>, the Sentencing Commission heard presentations from the Department of Corrections, the Division of Parole and Probation and the Board of Parole Commissioners about the impact of COVID-19 on their institutions, their agencies, their staff and those they supervise or have in their custody.

I wanted to get updates, so we're operating with current, accurate information from each of the three agencies and then we'll move on to further discussion as necessary concerning the SAFER Plan, the strategies that Ms. Strait talked about and then whether the Commission wants to offer any recommendations to anybody on the subject of releases.

**Director Charles Daniels:** Good afternoon, Chair Hardesty, and Commission members. I would like to take this opportunity to formally update a statement I made during the April 13<sup>th</sup> Sentencing Commission meeting.

During the meeting, I was specifically asked how many inmates had been tested for COVID-19, to which I responded none. The information I provided was outdated and did not accurately reflect the data I had available to me. NDOC started with a 158 CDC approved COVID-19 test swabs. To date, NDOC has tested 39 inmates using 11 swabs and 30 rapid tests, of which all were determined negative.

NDOC received an additional 400 test kits on April 24<sup>th</sup> and now have 547 remaining tests. Since the onset of Governor Sisolak's emergency declaration on March 12<sup>th</sup>, I immediately transitioned NDOC into modified operations by restricting visitation on March 15<sup>th</sup> and restricting non-NDOC employees' access on March 16<sup>th</sup>.

To further prepare NDOC's response to the pandemic, we activated emergency operation centers at every major facility and begin logging all COVID-19 activity and incidents, to include possible COVID-19 exposures of staff and offenders. We immediately suspended visitation and all non-NDOC employees, as well as implemented both screening and transportation protocols.

We also created inmate sanitation teams, utilizing 10% bleach solution to clean all common areas prior to and after meals. The sanitation teams clean at least twice daily and as needed. The 10% bleach solution is also available for checkout upon request to inmates for cleaning and sanitizing their cells. We provide informational briefings twice weekly to all staff and inmates, in which we provide updates regarding our COVID-19 related protocols and procedures. Additionally, we updated all staff within secured facilities to wear a mask at all times. We implemented entrance screening procedures immediately following Governor Sisolak's emergency regulations declaration.

To date, our protocols and procedures have been successful in mitigating the spread of COVID-19. Currently, we have zero confirmed inmate cases of COVID-19. To date, 11 staff tested positive for COVID-19. Each of those staff were instructed to self-quarantine and were not authorized to return to duty until cleared by their medical provider and NDOC's Medical Director. To date, one of the staff

members who tested positive has been cleared and has returned to work. That concludes my information.

**Chair Hardesty:** Do any members of the Commission have any questions for the Director?

**Tod Story:** Thank you, Director Daniels. I have a question about the tests that were run. You said there's 39 swab tests that were run and 31 rapid tests. Could you speak to the symptoms and the reasons that those two types of tests were utilized and what the findings were regarding each of those different style tests?

**Director Daniels:** The type of test that was used was determined by our medical team. I believe that was also cleared through our Medical Director. In addition to that, if you did the math, you'll notice that we used a few more tests on inmates that we had tested because several inmates tested twice.

**Mr. Story:** So, what were the symptoms that caused the tests to be conducted on those inmates?

**Dr. Michael Minev:** We use three cardinal symptoms to screen inmates and staff for COVID-19. That includes a temperature of 100.4 or above, dry cough or shortness of breath. After discussions with our Chief Medical Officer of the Department of Health and Human Services (DHHS), Dr. Ihsan Azzam, we have since broadened those criteria to any upper or lower respiratory tract symptoms. We have a very low threshold for testing either our inmates or staff for COVID-19 because of the risk of individuals carrying the infection with mild symptoms, also individuals may also carry COVID-19 and be asymptomatic.

So, we have a very low threshold, but we try to use the three cardinal symptoms as our main symptoms to look for. Any upper or lower respiratory type of symptoms, runny nose, cough, sore throat, any flu-like symptoms, muscle aches, chills, anything of that sort is a criterion for testing.

I have directed all the medical providers at all of our facilities to call me 24/7 if there's any inmates that have any of those symptoms. We discussed the case real-time and we make a decision on whether to test based on those criteria.

**Mr. Story:** Thank you. I know you referenced the three cardinal symptoms, but I believe that it was just this week that the CDC revised their list of symptoms to include additional upper/lower GI issues, digestive issues, as well. Some people are talking about cold feet, so the range of symptoms has expanded. I'm curious if you could revise the list, update it to reflect what that list of the CDC has, that's been revised.

**Dr. Minev:** Correct. We have not revised that as yet but the providers at our facilities are aware and I have made it known to them that if there's anything suspicious to call me so that we can discuss the case. Decide on a case by case.

**Assemblywoman Nguyen:** You had indicated that you had sanitation teams that were doing that. Who's making up those sanitation teams and what kind of PPE and what type of protection do they have? Is that staff, is that inmates? Who is that team?

**Director Daniels:** The teams are created at each individual facility in conjunction with our medical staff in terms of guidance and so on. But typically in the housing units and where the inmates live and where they work, the inmates are provided with the equipment to go ahead and sanitize and they are also supervised under what we call direct supervision by staff while they're doing all the cleaning. So,

the supplies are handed out to the inmates by staff. The supplies are monitored, and they move forward on a regular basis and they have individualized teams.

**Assemblywoman Nguyen:** And then my other question is a follow-up to, you had indicated that there were 11 staff that had tested positive and they were told to quarantine for 14 days and then get medical clearance before they could return to work. What type of process do you have in place to track their interaction with the individuals that are incarcerated in those facilities that they work? And were you doing any kind of testing of the people that they came in contact with, even if they didn't exhibit symptoms as they could have been carriers?

**Dr. Minev:** I work closely with our Infection Control Nurse, Miguel Ferraro and our Chief of Nursing, Torres Wickham. Suspected COVID-19 cases are emailed to all three of us. We review the cases and determine whether an individual needs to be on quarantine, what's the amount of time, what testing is required.

You had a question in regard to the individuals that, our staff that tested positive, what is our follow-up procedure, is that what you were asking?

**Assemblywoman Nguyen:** Well, let's say you have a correction officer who tests positive. You tell them to self-quarantine until they get medical approval to come back. I think you indicated that one of the 11 has already come back to work, is that right?

**Dr. Minev:** That's correct.

**Assemblywoman Nguyen:** So I guess my question is, let's say you have a correction officer who tested positive and they were in a module with 20 other incarcerated individuals and none of those individuals are symptomatic, but they obviously had contact with that person who was and now they're potentially carriers spreading. Is there any process in place to test those individuals or are they all being quarantined?

**Dr. Minev:** What we do is, we find out the individual who tested positive, we find all the contacts and we do that in conjunction with Custody, who is able to give us information in terms of who the individuals in contact with. We have a list of those individuals and we monitor those individuals for any symptoms over a period of 14 days. Those individuals, if they had a direct contact with someone who tested positive, staff go home for 14 days and we keep track of those individuals. If they test, if they develop any symptoms, they are referred for testing. Inmates, we had incidents where we had to quarantine inmates for 14 days to closely follow them and if they developed any symptoms, we would also proceed with testing.

We have been trying our best to reserve our COVID-19 tests for only our inmates because of the limited supply in the community. However, we are considering testing our employees who are currently on quarantine before they return. I have had extensive discussions with Dr. Azzam, the Chief Medical Officer of DHHS in regard to this. I feel most confident if our employees return back to work after two-negative COVID-19 tests, as long as they are separated by at least 48 hours.

There are some instances where outside providers have cleared our staff to return to work and I have not allowed them to come back to work because I want to make sure that they have two negative COVID-19 tests and be absolutely sure that they're negative before they return to work.

**Assemblywoman Nguyen:** My other question and this might also include some of the, maybe Vice

Chair Calloway can coordinate in your efforts answering this question. For example, we learned at the conclusion of the last meeting that there were positive tests for active COVID-19 at the Clark County Detention Center (CCDC). Obviously, once people are sentenced, they are transported from those local detention centers to your facilities.

I know that there is classification when people arrive in the prison system. How are you coordinating that track and trace kind of mentality between the local jails and the prison when you get newly incarcerated or sentenced individuals?

**Director Daniels:** We communicate regularly with the folks at the county jail. We know who's coming in advance. We ask them to share any information that's medically related in advance. And then upon their arrival, we quarantine those inmates from 14 up to 20 days in an isolation unit. While they're there, obviously medically observed and if there are any issues whatsoever, we will typically be made aware of it while those inmates are in the intake area.

What you must also remember is that all the inmates eventually from CCDC will start out at High Desert State Prison in their quarantine unit and at some point in time they may not be designated there to serve them time, but they will go through the quarantine period while at our High Desert State Prison.

For our northern facility, we have Northern Nevada Correctional Center where we also allow inmates to come from other county jails up there, to our facility.

**Assemblywoman Nguyen:** I have concerns. There are obvious concerns, you know, with people that are incarcerated. But as far as like staff [inaudible]. Of the 11, I know previously there were six and they had all tested on their own, with their own medical doctors and you said you're trying to reserve most of your testing kits for the people that are incarcerated potentially.

So, have the other remaining of the other 11 that have tested positive are they all doing that on their own as well?

**Dr. Minev:** What we are now coordinating is, coordinating a way in which, the 10 individual staff members that have tested positive, we will have them come to our Casa Grande transitional housing and what we will do is we will have a nurse that will perform a swab test and what we will do is to make sure that we get two tests within at least a 48-hour period of time and only after those two tests are negative would the individual be cleared to come back to work.

**Kimberly Mull:** I do not have a question but a comment. Director Daniels offered the opportunity to come tour some of the facilities this last Friday and I know that Jon Ponder and I both took up that opportunity to visit the High Desert Prison here in Clark County. I just wanted to share if possible, a little bit about that experience and what, at least what I observed and maybe that might help some answer some questions as well.

I want to start with the fact that I am a very high-risk individual for COVID-19. Not even a few years ago I was hospitalized in ICU for 11 days and had surgery on my lungs. I have a lung disease, but I felt like it was very important for some of the members on this committee to personally go and see with our own eyes what was happening.

I am the daughter of a retired correctional officer, but I also have more family members than I can count incarcerated, including a brother who's out now, but was originally charged with murder. So, it's a situation where I very much care about what's going on and I think that the families of these individuals

very much care what's going on.

The first thing you do when you walk in is, they have a station set up where the medical staff records your temperature. Which honestly, I was ecstatic about because for the last six weeks I've been unable to find a thermometer in Las Vegas to buy. But, they record your temperature and then they ask you a series of questions as far as, how do you currently feel, your recent engagement with other individuals, do you have any concerns relating to being exposed to COVID-19, etc. And then, you're offered a mask and hand sanitizer, I believe all of which were made there, through the prison system.

At this time, there were several employees in the waiting area to go into the visitation area. I did talk to some of the employees, including several correctional officers to ask them how they were feeling, what their experience was and how they felt regarding the policies and procedures that were in place. Each member reiterated his or her belief in the safety procedures, that were being implemented and multiple of them stated that they had very low numbers of staff calling in and that basically, they were very appreciative of still having the job in these times, more than anything.

Then, we were led down to a building, I don't know that the actual term is, I believe they're called pods. And we got to observe eight separate, what they're calling COVID-19 town halls. By my count, I would approximate about 120 individuals, inmates were in these two pods and divided up in these meetings that we got to observe.

In these meetings, the Warden essentially read off what the current status was of what they were implementing or experiencing for COVID-19, such as here are our policies, do you have any questions. There were several individuals who asked questions. For the most part, I think Jon and I talked about, a lot, we saw individuals nodding, in agreement with what was being said but there were some individuals who were taking notes and had questions to ask. These ranged in asking about if there was going to be early release or compassionate release. Others were asking about the ability to get masks and if—why they couldn't have their own hand sanitizer. At this point, from our experience, they were allowed to ask for hand sanitizer, to get hand sanitizer but there aren't allowed to have their own. I believe because some individuals were taking advantage of that being alcohol-based. There were questions about—really, the main questions I noticed were they were concerned about what was happening to the individuals coming in from County Jail. So, they were told how they are quarantining them and keeping them for a minimum 14 and then average 20 days. That seemed to comfort, several of them that worried about that.

The main thing that I saw expressed from the individuals that were incarcerated was they wanted to know how their families were doing on the outside. They wanted to know what was happening out in the outside, I guess, world. And asking about, you know, if they could have more communication with them, if they could have more ability to have phone calls and things to that extent. Because really, it seemed like they were more worried about their families and friends than they were about themselves. I'm not saying that's universal the thing that's what I experienced, from being there and from watching and interacting with them.

Many of them were worried about the lack of food and housing and jobs for their family members and really wanted to be able to find out more about that. To which the Warden and Director Daniels tried to express what was happening in our communities and to that point. Also, the other main things that were questioned and asked were, why guards only had to wear masks at that time—it sounds like it may have changed—at that time they only had to wear masks if they were within six feet of an inmate.

And so, there were questions asked about that and then also asked about if guards could wear gloves. Because inmates were concerned about guards touching things that then the inmates had to touch like

microwave handles or surfaces and wanting to know why there weren't gloves being implemented. To which, they talked a little bit about that and then also talked about you know sometimes it's showing that washing your hands it's more effective than wearing gloves because those give a false sense of security, but trying to answer those questions.

And so, overall, it was very impressive from my standpoint. I was very impressed by what I was seeing and by what I experienced and listened. There was plenty of room for the individuals that were incarcerated to practice social distancing and to keep far from each other, but within those 120 or so individuals that attended these eight town halls, only two I saw actually distanced themselves from everybody else. Everybody else sat at tables nearby with little groups and there were several tables that were left open and available for individuals to spread apart at if they had chosen to, but they did not choose to do that.

And so, from my experience, most individuals that, at least I got to observe and interact with, seemed comfortable, as you can be in that situation. And were more concerned about their family members and people on the outside than they were about what was happening, or I guess what the possibility of what could happen to them was.

I know Mr. Ponder probably can add to that. I think it's just important for us to recognize that because at this point they have not had a large outbreak, because we were the first state to stop visitations, because we were the first state to limit movement, I guess, as far as, I can tell in these areas, and to keep individuals in smaller like family like units when they do come out when they do interact it's with the same group of individuals within their pod. And so, it's very similar to, I guess, here on the outside where we're confining ourselves with our family members. It seems to have that same kind of environment.

So, is it perfect? Absolutely not. Is anything 100% sure? Absolutely not. But from my experience and from what I saw, I've been very impressed by Director Daniels and what was being implemented and I felt very safe even with as high risk as I am going into that environment and being able to observe it.

So, I just wanted to put that on the record and make sure that not only did I want to thank Director Daniels and his staff of what they're doing, but also to recognize that, I think in many ways, because of the things we did first, we should be recognized nationally as a leader with what our Department did and what they are still trying to do to mitigate that exposure and the possible cost.

**Chair Hardesty:** Thank you Ms. Mull. I did want to extend my thanks to Director Daniels and his staff for inviting members of the Commission—following up on his invitation for members of the Commission to enter the prison facilities and witness their town hall meetings. As Ms. Mull indicated, she took advantage of that opportunity and had time to do it and I want to thank you Ms. Mull, for doing that with respect to your responsibilities on the Commission. That's very helpful insight. Mr. Ponder, while we're on the subject, do you want to supplement that or offer any other comments?

**Mr. Ponder:** Absolutely, thank you, Chair Hardesty. I want to extend a huge thank you to Director Daniels, as well, for the invitation for the Commission to come in. I greatly appreciate your transparency. What I appreciate even more is the extreme professionalism that I experienced from the time we walked into the institution, to the level of information that was being conveyed to the inmates. I think you did a phenomenal job at keeping them informed of what's going on, not only inside the facility, but being able to bring them up to date, bring them up to speed, where things are that are taking place on the outside.

I was really even more impressed, for lack of a better word, at the receptiveness of the inmates. As

Ms. Mull indicated, it was eight different groups of inmates that we had the chance to go through this town hall, but them being receptive to it and the quality of the questions that they were asking and their response to those questions I was very, very impressed. So, Director Daniels, thank you for that and appreciate the opportunity for us to be able to come inside so that we can, you know, see it for ourselves.

**Chair Hardesty:** Are there any other questions of Director Daniels before I ask Chief Carpenter to give us an update on the Parole and Probation Division?

**Mr. Hicks:** I have a couple of questions, Chair Hardesty, this is Chris Hicks.

**Chair Hardesty:** Sure, go ahead, Mr. Hicks.

**Mr. Hicks:** Today, what's the population of the Department of Corrections?

**Director Daniels:** This is a Director Daniels, for the record. We have 12,123 inmates.

**Mr. Hicks:** And if you don't have these numbers, fine. I'm just curious if you guys have done any kind of breakdowns into looking at your population relative to COVID-19 concerns. How many of those inmates are over 65, if you know?

**Director Daniels:** I can look that up for you, but I do not know off the top of my head

**Mr. Hicks:** Okay. Do you know, have you guys done any kind of analysis based on CDC guidelines of how many of your inmates may fit the category of those that are a higher risk? Such as people with chronic lung disease, severe asthma, serious heart conditions, immune compromised due to cancer treatment, organ transplantation, diabetes, kidney disease, any of that. Have you broken that down at all to kind of get a snapshot of what that population looks like?

**Dr. Minev:** We are aware of those individuals with those conditions, but I do not have an exact number of those individuals.

**Mr. Hicks:** Do you have a ballpark?

**Dr. Minev:** I don't. But I can get those numbers for you.

**Mr. Hicks:** Thank you. How many of your 12,123 are on house arrest?

**Director Daniels:** This is Director Daniels, for the record. I don't believe we have any inmates for house arrest.

**Mr. Hicks:** CJI put together this nice packet of strategy for keeping facilities and people in custody safe. It was a little bit like a rerun for us because it seemed to me you guys are doing most of what was suggested in here, is that fair?

**Director Daniels:** That would be an accurate assessment and we're doing some additional things. I just gave you the highlights.

**Mr. Hicks:** Thank you. I've been looking at the CDC guidelines and they say social distancing, you know, avoiding immediate face-to-face contact is one of the best ways to avoid the transmission of

COVID-19. Within your prisons, how many people would have to be released in order for you to actually operate with the six-foot social distancing?

**Director Daniels:** I have done no such study, however, understanding how that works, we implemented controlled movement very early on in the process in which we only would allow maybe a quarter of a housing unit out at a time to do anything. And those individuals typically stay, have stayed together the entire time since we've started. So, if we did happen to have some type of positive, we could easily trace back all the inmates that had access through the individual staff member because realities of it would probably be brought in by a staff member and we've been very aggressive at our front entrance. That's where we draw a firewall.

It's certainly not perfect and if anyone tells you they have a perfect system, I don't know what else to tell you, but we don't. I tell you what. Through our medical assessment at the front, every person entering we do a pretty good job of doing a primary and a secondary assessment if necessary and because of that controlled movement when the inmates are out of their pods, though they can practice controlled movement, I'm sorry, social distancing while inside of their pods for the most part.

**Mr. Hicks:** Thank you. Like Ms. Mull and others have said, I commend you immensely for the steps you all took. We've seen other states with massive outbreaks. I've done a fair amount of looking into it over the last couple days and it's quite commendable, sir. So, thank you.

**Director Daniels:** Thank you very much for the comment. And I appreciate the comments of Ms. Mull and Mr. Ponder, but I would be remiss if I were to tell you this wasn't anything more than my staff, my medical staff, my custody staff and so on, just doing a tremendous job. We have staff fighting to come to work versus trying to find a way to be home, yet we all have the same issues that anyone else in society has. But in part, the realities of it is I have support from the Governor to do my job and I have the best Department of Corrections in the nation. Thank you.

**Mr. Story:** I had a follow-up question just based on some of the comments that Ms. Mull made, because at the American Civil Liberties Union (ACLU) we've gotten conflicting information from literally hundreds of family members and inmates reaching out to us saying that they do not feel safe, that they are not able to get the materials that are said to have been given to inmates in order for them to wash and clean their facilities. And so, we've gotten different information directly from those inmates or their family members relaying that information to us. Though if there's any way that we can clarify that, that would be helpful.

And then another follow-up question to my initial line of questioning is that, all of the folks that have been tested according to Director Daniels' first statement, the 39 individuals, are those self-reporting and has NDOC actually done any systematic screening of inmates either using a temperature technique or some other way that they would be able to screen the populations in these facilities or is it just strictly based on self-reporting?

You've conducted 39, I think you said 39 tests so far and I'm curious is that a result of self-reporting only or are you doing systematic screening of the population?

**Dr. Minev:** This is Michael Minev, Medical Director for NDOC, for the record. This is a combination of self-reporting from inmates, as well as our medical staff at our facilities; paying very close attention to any type of medical complaints that might be suspicious for COVID-19. I have instructed all of our providers and all of our facilities to have a very low threshold for any COVID-like type symptoms. Obviously, it's becoming broader and broader by the day.

We have instituted a screening of at least one of our facilities, in which there was a suspicion of maybe more individuals that might have COVID-like symptoms. So, what we did was we instituted a temperature check for the entire facility on a daily basis and that is currently ongoing.

**Mr. Story:** Is that only one facility?

**Dr. Minev:** That's only one facility at this time, correct.

**Mr. Story:** Is there a reason to not do more system wide temperature screening?

**Dr. Minev:** I'm basing this, that screening of temperatures at that particular facility on a daily basis based on the number of cases that we had at that facility. Our other facilities have had not had that in my mind at the clinical suspicion to do the pan screening like that particular facility.

**Mr. Story:** We've seen other facilities across the country that are doing systemic system-wide screening and so if there's any way that that could be practiced here in Nevada, I think that that would certainly give us a lot more understanding as to what is actually happening within the populations that we're housing in our facilities. And then, just as a follow-up, we also saw a news report this week that there's a specific situation at Lovelock with regard to those youth who are incarcerated there and the Infirmary being the place that they're being housed and thereby subsequently making that base unavailable should there be any medical outbreak at Lovelock specifically. Can you speak to that, please?

**Dr. Minev:** Lovelock does have that situation based on the youth offenders. However, they do have a part of the gym at Lovelock, has the capability of being converted into a quarantine unit and we do have the necessary equipment to create a quarantine unit at Lovelock that would afford the youth offenders the protections that that they need.

**Mr. Story:** Well I don't want to get in a debate about that, but it seems that the pre-requirements are already violated based on the fact that the disclosure was that it's only a drape or a curtain that's separating the youth from the adults.

**Director Daniels:** We are a professional corrections agency and we work hard at keeping the public, staff, and inmates safe. Our agency fields complaints regularly and we address them with that same regularity. Do we have a [inaudible] organization? No, but do we care. Are we relevant and do we execute our public duties in the best way possible? Absolutely, thank you.

**Assemblywoman Nguyen:** You had mentioned or someone had mentioned that there were about 300 and maybe this was Department of Parole and Probation, but someone had mentioned that there were about 350 plus like people that had been granted parole already. I was wondering if you had any kind of updates to whether or not we were able to process some of those people that have already been granted parole; they were just either waiting on placement or plans or any of that.

**Chair Hardesty:** Assemblywoman, I was going to have Chief Carpenter provide that as part of her report.

**Assemblywoman Nguyen:** And then, just my follow-up. I appreciate that the Director was so receptive in opening up the prison, just for the record, I would be happy to go and visit in a normal capacity, but in light of the Governor's order and light of the fact that I have vulnerable individuals that are in my home that I wanted to protect that is the reason that I chose not to participate. If there is

ever—and I put this in an email to the Director of the Sentencing Commission that if there's ever an opportunity for something to be done remotely, so we can participate in those like Town Hall like meetings with inmates where we can at least you know observe what's going on, I would greatly appreciate that, as well as, I know there are other members of this Commission that didn't feel safe and comfortable with their health and the health of their family members attending that type of tour at this time.

I appreciate you being so receptive and opening that up and I'm glad that other people were able to go. I just personally did not feel comfortable. What I can tell you is I also receive a lot of legislative email from prisoners that is contrary to some of the representations and the experiences of Ms. Mull and Mr. Ponder. So, I would just like to have an open dialogue about that and I know other legislators and talking with them also receive legislative email from individuals that are incarcerated that kind of echo some of the comments that Mr. Story had indicated about not having access to that, not having their medical concerns. I'm glad that we're receptive to, I know this is an ever-changing dynamic, you know like, with the CDC, you know, bumping up the symptoms that we need to look at, I'm glad to hear that the prison is also receptive into incorporating those changes as they develop. So, thank you.

**Mr. Arrascada:** Following up on Mr. Hicks' questions, could the Director or his staff provide to the Commission the list of at-risk people that are incarcerated currently at the prison? Our Washoe County Sheriff's Department was able to do that. Then I also had a question of Director Daniels. He said that they're practicing social distancing for the most part, if he could elaborate on that?

**Director Daniels:** In most of our housing units, the inmates are assigned to cells, typically two to a cell. However, when they're outside of their cells, where the social distancing comes in, is when they're out and they can eat and use the telephones and use the showers, that they typically social distance themselves. So, that's what I meant for the most part. Now, I'm certainly not referring to them inside of their cells. So, my response was based on when they're outside of their cells, in their pods, in their smaller groups of individuals, they're able to keep some distance amongst one another.

**Mr. Arrascada:** Thank you for that. Maybe I misunderstood the last meeting. Don't you have most of the inmates on lockdown where it's 23 hours in their cell and only one hour out?

**Director Daniels:** In many respects at certain facilities, for instance at Ely State Prison, those inmates spend the majority of their time inside cells, depending on the housing unit. In my other housing unit, the inmates spend much more time in my other facilities, much more time outside of their cells, but that time is limited—

**Mr. Arrascada:** Director, I'm not trying to argue with you I just distinctly, I think, recall from the last meeting, I think you said that virtually the entire prison system was on a 23 hours in cell, one hour out, so that you could control groupings. But I guess what that means is that inmates are 23 hours a day unable to practice social distancing with their cellmates.

**Director Daniels:** Here's the way that it works, I believe at our last meeting, I believe High Desert State Prison was referenced. At that particular time, High Desert State Prison was on lockdown. We also have other issues that are that go on, for instance, programming and religious services, which have been modified and we don't have that type of programming available or its greatly limited or reduced, and those inmates spend more time in the cell.

However, I'm not going to go facility by facility and circumstance for circumstance. I provided you with generalized answers, trying to give you information that was requested as with anyone else. We had an opportunity, we invited everyone, and there was opportunity to come out and see for yourself and

ask questions. I have wardens at each of my facilities that do a great job and they have to deal with the issues that are in front of them on a daily basis. They have to make adjustments based on their security concerns and other concerns at their facilities.

We do a very, very good job and under very, very difficult circumstances. For me to sit here and parse what happens that every facility, at every single time, would not be appropriate and I would never be able to get that right as the wardens have to do what they have to do to ensure the safety of their facilities. Thank you.

**Mr. Arrascada:** Thank you. Director Daniels, I too appreciate all that you've done. You're aware that Sheriff Lombardo sought a 10% depopulation of the Clark County Jail in order to practice better social distancing are you aware of that?

**Director Daniels:** I believe I saw a public announcement of that nature.

**Mr. Arrascada:** Okay. Also, up here in Washoe County, we have not had any positive tests at our Washoe County Jail. However, one of the captains who's in charge of detention said it would be naïve to think that COVID-19, that they would escape without having some type of positives at the jail. Would that list, if you know, the list of the people incarcerated that fall under the CDC guidelines, if that was depopulated by at-risk people, would that give you better ability to socially distance?

**Director Daniels:** My response is this. I do the best we can with our circumstances and to date, we have zero positive COVID-19 cases in our inmate population. I will not continue to go back and forth on what others are doing. Our circumstances are ours. We're doing our best to manage it. I would hope that you would understand that but thank you for your recommendation.

**Dr. Salisbury:** I do want to thank you for the opportunity to enter the institution. I, myself, was out of town last week so I was unable to attend. I would have been there, but I did have to go out of town to seek housing [inaudible] housing transition. I also want to thank your staff for the incredibly difficult, challenging hard work that they're doing every single day. As I've said before, I've met many of them in several of your institutions and I have no doubt that they are doing their absolute level best under the circumstances that we are in.

I do have some questions, in particular, first of all, just to ask a little bit about what's been going on in other institutions. And I know you don't want to keep coming back to this, but I do need to kind of point out that eight out of the ten highest clusters of COVID-19 are in detention facilities and jails. There's been a number of institutions that have started to test incarcerated people who are asymptomatic and are finding very, very high rates of inmates who are testing positive; including one prison in North Carolina that after they started massively testing in one of their facilities, 90% of the inmates who were tested were asymptomatic in terms of testing positive. 90% who tested positive were asymptomatic.

The Federal Bureau of Prisons is also starting to open this up and test widely for asymptomatic inmates in order to contain the spread. We've got, of course, a number of public health officials including one at Johns Hopkins Bloomberg School of Public Health, Leonard Rubenstein, who's quoted in *USA Today* saying "unless you do universal testing in all environments, risk of spread is enormous, if you are waiting for symptoms to emerge before you do the testing you are getting a false picture of what is going on, it's too late."

I wonder if both you and Dr. Minev could speak to whether or not you feel like NDOC needs to be doing more wide testing, particularly given these latest statistics and the latest news coming out about the number of people who are incarcerated who are asymptomatic and apparently continuing to spread it

not only amongst themselves, but with staff and then potentially staff in the public. Thank you.

**Director Daniels:** Thank you Dr. Salisbury, for the information you've provided. The first comment is related to your data on jails and detention centers in the clustering. We don't have jails or detention centers; we run prisons. We don't have the same transiency and we have much more control of environments. We have large medical staffs at each of these facilities. So, that would be somewhat different in terms of how we would view it. In terms of the medical aspect of it and in terms of testing, I'm going to turn this over to my Medical Director, Dr. Minev.

**Dr. Minev:** We have been in and I have been in very close contact with Dr. Azzam, the Chief Medical Officer of DHHS of State of Nevada, almost on a weekly basis. Definitely considering every possible means to keep our staff and our inmates safe at all times. Is asymptomatic testing on the table? Absolutely, but I think at this point in time, I don't think it's necessary. However, that can change at any time. I definitely am open to any possibilities on the table and I continue to gain insight from obviously the CDC, but also from continued discussions with Chief Medical Officer, Dr. Azzam. So, again, we are trying everything we possibly can to keep our inmates and staff safe at the NDOC. And, I definitely will keep those under consideration.

**Dr. Salisbury:** So, what I hear you saying Dr. Minev, is that you're open to entertaining a possibility of more widely testing, particularly those inmates who are asymptomatic, is that correct?

**Dr. Minev:** Correct. One example of a small cohort of inmates that we have tested that were asymptomatic were all our pregnant inmates at Florence McClure and that was just done within the last two weeks. We were very lucky that they were all negative. So, obviously the testing issue is a hot topic right now, the lack of tests out in the community, as well as, throughout the country. If the tests become more available, I am definitely open to opening of the testing of asymptomatic individuals.

At this time, tests are obviously a very hot commodity. Dr. Pandori at the state lab, in conjunction with Dr. Azzam are doing everything they can to not only provide extra tests for our inmates, but also for the state of Nevada. So, it is a constant battle and we're keeping up on it every single day but, you know, again, I'm trying to do my very best here to keep our staff and our inmates safe based on their recommendations.

**Dr. Salisbury:** Thank you for that. Just as a follow-up. So, two of the top clusters are actually prisons, Director Daniels. So, I may have misspoke and said detention centers. Of course, prisons are different than detention centers and certainly different from jails, but you know, one prison, a couple of prisons actually in Ohio, one has I believe the number of positive cases is 80% of the inmate population. So, that's a prison institution. That is one that is not a jail, so I'm curious to know your take on whether you feel like more widespread testing of asymptomatic individuals inside the prison system need to be tested.

**Dr. Minev:** Do you have a timeline of when preventive measures were instituted at the Ohio prisons that you're referencing?

**Dr. Salisbury:** I can find out. I can get back to you offline or as part of this meeting, in the next meeting, of course, that's not until July, but I can find out, because I'm in quite close communication with one of the medical correctional health experts, Dr. Megan Noviski, in terms of what they've been able to do. And it is entirely possible, I'm glad you bring up that point, but there may have been less precautions taken early on. So, I absolutely hear your point on that.

I do have a number of other questions that I would like to ask just in terms of, you know, whether like,

can you talk to me about how the grievance process is occurring inside your institutions for staff who might have grievances? In terms of what they may be seeing, in terms of the precautions that are being taken, if they're not seeing precautions being taken. Like what capacity do your staff have to bring forth grievances or complaints up the chain?

**Director Daniels:** Our staff are keenly aware of how to utilize their chain of command to ascertain information or make complaints and so on. We also have an Inspector General's Office that also serves for an additional outlet. There's also the Human Resources Department, which would serve as another way of finding out facts or making complaints or doing what they believe to be either inappropriate behavior or a lack of whatever you want to call it. So, our staff are very well aware; our staff the majority of them are sworn and they certainly know the chain of command and how to get things done if they perceive that something isn't working out right.

**Dr. Salisbury:** Thank you. And then just one last question for you, is NDOC still transferring incarcerated people from institution to institution? Is that still occurring like, in terms of what's the protocol—can you just tell me again the protocol, if that's still occurring, how—are people being quarantined? How long are they being quarantined if they are being transferred from facility to facility?

**Dr. Minev:** I have sent out communications to all facilities, wardens, assistant wardens, as well as all the medical staff, to notify me if there is any transfer that is needed. Those transfers are being carefully screened. Again, we are not only screening in terms of cardinal symptoms, but any type of suspicion for COVID-19 infection. The—only in emergent situations will inmates be transferred, but we definitely try to do a very thorough medical assessment of the inmate before they're transferred, if they need to be transferred.

**Assemblywoman Nguyen:** I have one follow-up question. You had mentioned that you tested all the pregnant women at Florence McClure. Of those 39 tests that you had tested, how many of those were the pregnant women that you tested?

**Dr. Minev:** This is Michael Minev, Medical Director for NDOC, for the record. Those included nine pregnant females from Florence McClure.

**Chair Hardesty:** Let's move on to Chief Carpenter and the Division of Parole and Probation. There was a specific request, Chief, if you could share with the Commission sort of the category or group of folks in the 398 that at least as of April 13<sup>th</sup> you mentioned have been granted parole, but not released. I think it would be helpful for the Commission, as well as the public who are listening in, to get a sense of some of the limitations or obstructions or whatever you want to characterize them, to releasing some of those people and then maybe any updates you've had developed with respect to added numbers and maybe even those who've been released if you wouldn't mind.

**Chief Carpenter:** Hi, good afternoon Commission. As the Chair said, at the last Sentencing Commission meeting we discussed options for releasing inmates and it was requested that I discuss in more detail the Division's past eligibility date list or the PED list, as we refer it, which is basically just an overdue list.

So, what is this overdue list? The Division keeps track of all inmates who have been granted parole by the parole board. Once the parole board grants parole to these inmates, then the Department of Corrections and P&P work together to assist these inmates in formulating a release plan. NDOC and P&P are bound by a few statutes. NRS [inaudible], NRS 213.140 and AB 236 Section 100, I don't have that statute. I'll discuss those later.

Justice Hardesty asked to get into a granular discussion about our categories and so the Division uses certain categories to break down the various reasons as to why these inmates have not been released. So, I'll go over most of them.

The first category, there's six of these people it involves pre-parole plans. So, per NRS 213.140, NDOC is responsible for obtaining the inmates' initial pre-parole plan. And so, I have to say that P&P and NDOC and the Parole Board we have collaborated endlessly on it on this to try to decrease the people in this category. So, it fluctuates daily, but as of today, I think there's six.

The second category is for sex offenders that have their primary plan denied due to release limitations by the Adam Walsh law and there are four people today in this category. The limitations are basically proximity where children congregate, proximity to schools, parks, and other areas frequented by children making finding suitable private residences very challenging for this segment of the prison population. There are also few structured programs or motels that will accept sex offenders.

The third category, which has forty people and involves interstate compact cases. Currently, these cases represent inmates that are awaiting interstate compact investigation to be conducted by another state. And there are cases that are approved by another state, but the transfer is pending due to the states imposing moratoriums on their transfers because of COVID-19.

The fourth category there's sixty-four people in this category and includes all non-sex offender plans that have been denied. So, sometimes plans are denied because there's not a--the inmate didn't provide a correct address, the address doesn't exist, the phone lines are disconnected or there's just no viable housing.

Fifth category, there's thirteen and these people are pending extradition cases. P&P staff work with applicable agencies to coordinate extraditions and sometimes these agencies are just slow to respond to our requests.

The sixth category, there's five, and the inmates in this category are typically at the Parole Board having their special conditions reviewed for suitability. For example, the cases that we had currently are inmates who are ordered on to house arrest and they are claiming to be indigent and without support or means to pay for the house arrest program, so they it won't work for them.

Seventh category are twenty-nine people in this category today includes inmates that have exhausted all private residence and Medicaid funded housing options and/or have been approved for a program. When I say program, it's a halfway house a transitional living facility or an inmate inpatient program.

Eighth category, there's twenty-four people in this category. It includes inmates who have paid for or been accepted into a Medicaid funded housing program and our waiting bed space.

Ninth category, there's thirty people in this category and includes inmates that wish to expire and are actively refusing parole. Now, this is NRS 213.1218 and it basically says that a person in prison has to sign some documentation. If they don't sign the documentation, they won't be released. We think that they just they don't want to be under supervision under the Division's supervision, so they don't want to sign it.

Tenth category, there's fifty people. Involves lack of housing options and so the Division has a program called an Indigent Funding Program and we've exhausted all of that funding. There are limited numbers of vendors willing to accept inmates. Many programs any housing option that besides a private

residence or hotel or motel such as a halfway house they're not reviewing applications in a timely manner because of COVID-19 right now.

Eleventh category has fifty-eight people. Includes cases that the Division is actively investigating. The Division has been expediting investigations; it has been closely monitoring the reasons why pre-parole investigations are denied. So, we've been really trying to ensure that these investigations are completed and completed timely.

Twelfth category with twenty-two people includes inmates that have approved plans but are still awaiting release. Some examples: The Division's waiting for a scheduled bed date for a program or motel to become available. Sometimes an inmate could be on their first or second or third parole plan before it's finally approved. NDOC transports these individuals and sometimes that can be difficult if somebody—an inmate is in a camp or they're with the fire work area or just from north to south or south to north these are challenges that we face. The good news is that AB 236 in Section 100 will assist in this category. The Parole Board and NDOC have been collaborating to ensure that inmates are seen sooner. The statute says six months prior to their parole eligibility.

Thirteenth category, there's twelve people. Includes inmates who have incurred a new infraction while they're incarcerated which can include new felony charges that could be levied upon them.

And the last category, there's thirty-four people. Includes inmates that have exhausted all housing options or are without private sponsorship or some kind of family support. They've been denied or do not qualify for the few Medicaid paid housing options; they expire too soon to receive our indigent funding, or they lack available identifications required by most programs. It says sometimes these are sex offenders, sometimes these are people that don't have citizenship and they can't get their identification. Some of these inmates have been given a release option to a homeless shelter, but they either refused or they were denied because of the risk factors and we didn't think it would be behoove us to give them to a homeless shelter.

So, what are the challenges that P&P faces and how has how has COVID impacted us? Well, funding is a huge challenge, so halfway houses, transitional living facilities they secure payment through either the inmate or the inmate's sponsor and the Division's indigent funding program or Medicaid. And like I said before, the Division's indigent funding program has been exhausted, so we do not have any more money to assist this population.

The second is limited parole probation embedded staff in the prisons. So, when we're fully staffed, we're good and the employees are busy. However, because of COVID-19, we have two employees that are in quarantine. We have one employee that's home because of underlying health conditions and because we don't want staff exposure, we've curtailed any face-to-face meetings and so it's impacted the way we do business.

As we discussed, interstate compact investigations are impacted because some states have put placed a moratorium on accepting cases or investigating cases. Motels, hotels and program challenges, vendors are reluctant to mix populations because of COVID-19, so that's an issue. And lack of overall bed space availability due to people not moving out. So, there's no eviction process at the moment because of COVID-19, so there's just—the beds aren't becoming available like they usually are.

So, what can we do? Some proposed solutions. Statutory language. So, those statutes that are out there, one proposed solution would be to relax the current statutes or maybe see if we could go forward in an attempt to change existing statutory language in the upcoming session.

Housing is a huge issue as we discussed, so that could be a possible solution. Maybe having some kind of state-owned or state-run house facility, maybe like Casa Grande where inmates who are in indigent or sex offenders could automatically parole to this type of environment and there wouldn't be this back and forth of trying to find a viable plan. The challenge with that is who would pay for this and who would operate this type of facility. That's a great question and I just want to throw it out to the group that maybe that this could be an option.

P&P, we have our role and responsibilities. It's outlined in statute. Unfortunately, we don't have the skill set or the resources or the authority to run a housing facility. So, it's a top challenge. I think if NDOC and P&P could work together in this session, maybe we could get something on.

The third possible solution that I thought would be helpful is some kind of community resource center. I've been thinking about this for a long time. Maybe some kind of center in the north, in the south and in the rurals, that everyone can utilize. Whether it's the city, it's the county, it's the State, it's the courts, it's law enforcement, it's the public defenders, the District Attorneys. Having like a one-stop shop for everyone to go and they can get counseling, food, employment, identification, housing solutions. They can possibly get signed up for Medicare, Medicaid. So, I'm thinking that if the state gets together and tries to pull all of our resources together, maybe something like that would be helpful.

So that concludes my presentation.

**Chair Hardesty:** Thank you, Chief, and I appreciate the summary as well as the suggestions you've offered. I did have one question before I open it up to other Commissioners. Of the numerous categories that you broke down, other than perhaps the category in which the inmate is refusing to sign the papers for release under 213.1218, are there any of these categories in which you feel the Pardons Board could play a role in addressing the resolution of an inmate's parole grant and facilitating that release?

**Chief Carpenter:** Usually the Pardons Board, as you know, they would commute somebody's sentence. So, I guess they could commute their sentence so they wouldn't be on parole but that may be a cumbersome process. It might be easier just to simply release them since they've already been granted parole. If we relaxed the statutes and I don't know if that's possible, but I guess, to answer your question, yes, they could, but I think the Pardons Board might be—it'd be more beneficial for them to see inmates who have not been granted parole.

**Chair Hardesty:** Okay. Thank you. I do think there is a portion of the Pardons Board authority to relax the statutes as you have characterized it. Do you agree with that?

**Chief Carpenter:** Yes.

**Chair Hardesty:** That's what I had in mind.

**Chief Carpenter:** Oh yes, then let's go for it, absolutely.

**Chair Hardesty:** Well, I'm not suggesting anybody's going to go for anything or even inviting that, but I wanted to address that, the question of that role of the Pardons Board and its ability to address some of these. Not all of them but some of them if they chose to.

**Chief Carpenter:** Great, and just to weigh the effects of that. If people are released without viable plans, like we've talked about extensively last meeting and this meeting, there will be consequences.

If there's no viable plan, then people, you know, may not do well.

**Chair Hardesty:** Well, and to underscore the point, many of these folks are in this position with the exception of the 30 who don't want to sign, are in this situation because their plans generally speaking, are not viable. The extradition cases, that's a different thing and the cases in which you're waiting for, but indigent resources and have no funding. There's just an awful lot of folks here who are without solutions given the current economic and housing environment.

**Chief Carpenter:** Correct.

**Chair Hardesty:** Thank you and then are there any questions for Chief Carpenter and her comments and presentation?

**Mr. Story:** My first question is about the total population you've identified here Chief Carpenter, and how many of those individuals were in this status prior to the onset of COVID-19? So, looking at that from the population prior to say February of this year until now. And then the second part of my question has to do with housing options because we released a report about this very situation back in 2015 and the number of people who were approved and available for parole but were being detained for a myriad of different reasons as you've outlined here. One of those specific reasons that came to our attention back in 2015 is that for those vendors who were offering housing options, there were no non-religious housing options available. So, if someone is non-religious the only option they had was to go to a religious based facility. Has that been changed since then and is that available? I realize you may not have the answer right away, but if you could get back to us if you don't have the answer to that currently.

**Chief Carpenter:** The first part of your question was the total population prior to COVID-19 and now. I don't have that, but it fluctuates daily it could be anywhere from 350 to 398. It goes back and forth, but I haven't seen a huge jump in this list because of COVID-19. It's been rather high consistently, but I can get you the numbers. That's no problem.

The second, with the housing options, I don't know about the religious versus non-religious and I can try to get you some information about that. But I think it's important to note that any housing option that the Division allows parolees to utilize, they must comply with the state and county and city fire codes and licensing and all of that. So, that is a very cumbersome process. It's a very expensive process and so that's another avenue that we should probably look into. I'm not saying that they should be wound back, and we shouldn't comply with that. It's just that it's a difficult process for people, so that's one of the reasons why there are housing opportunities out there, but P&P cannot use them because of that, if they're not licensed by the state.

**Mr. Story:** Is that a statutory limitation that you're saying should be revised?

**Chief Carpenter:** Yes.

**Mr. Story:** If you can get back to me on the question about it being non-religious based housing option because for those who are eligible and should be released, if the only option available to them is to go to a religion based housing option that, we've got to figure out some other option for those folks. Thank you.

**Ms. Mull:** I know for my brother's experience, he's in Texas on probation, but he's having to pay hundreds of dollars a month in probation fees and parole fees. In the current environment, is there any

reprieve or halt or anything for individuals that are unemployed or having, you know, all these other things that are happening to them financially or are they still in Nevada being required to pay all these fees at the moment?

**Chief Carpenter:** To answer the question on the fees, the Division of Parole and Probation doesn't have the authority to waive those fees permanently. We do have the authority to say, hey, if you can't pay, okay, we understand that you're not going to go to jail on something like that. It's not an infraction per se. That would be up to the sentencing judge to do that.

To elaborate on that, we couldn't waive some of those fees, especially if it's a restitution. The victims need restitution. We couldn't do that. And with supervision fees, that goes directly into our budget, so that's interesting. So, we don't—they don't get in trouble for non-payment, but we don't have the authority to do that.

**Ms. Mull:** Okay, but no one's going to be in violation or get rearrested because they aren't able to pay these fees?

**Chief Carpenter:** No.

**Chair Hardesty:** While we're on that topic, just for the benefit of the Commission members who may not know, Chief Carpenter, what percentage of your budget is funded through supervision fees paid by inmates under supervision?

**Chief Carpenter:** That's a great question. I'll have to find out.

**Mr. Hicks:** What type of budget drawbacks are being suggested to you at this point? Like, how much in cuts are you going to be looking at having to make?

**Chief Carpenter:** All state agencies had to make a 6% cut and then a 10% cut and then a 14% cut. So, I believe the Division's budget is around \$135 million for two years.

**Mr. Hicks:** So, you have to make a total of a 30% cut?

**Chief Carpenter:** No, they wanted to look at what it would look like at a 6% and then an extra four which was 10% and then the 14%.

**Mr. Hicks:** So, I was looking at these, what was provided by CJI about what some other states have done, and I looked at similar populations, just to kind of get a feel for context. Arkansas, for example, has a very similar population in Nevada, about three million people, and their Governor according to CJI reach recently announced plans for compassionate release program. To be eligible, it would be a non-violent offender or a non-sex offender and within six months of release.

So, similar to what the SAFER Plan is suggesting, but actually more confined than what the SAFER Plan says and what that did is it made 1,700 inmates eligible for parole board review. What I'm curious is, imagine those kinds of numbers all of a sudden being eligible for parole, on top of the 398 on the PED list already. What would that look like for your Division presently and then your Division with 14% less employees?

**Chief Carpenter:** First, it would depend if they had to be granted parole and go through the Parole Board process and that sort of thing and Chairman DeRicco could answer those questions. But if they

were released or granted parole let's say, then that would be, you know, X amount of people that our few staff would have to try to find viable plans, that would be very, very difficult, as I've outlined. Then, let's just say they were released, they wouldn't have employment opportunities and housing and all of those things and our staff, it would be very difficult for our staff to supervise them.

I've already had our staff look into different ways of supervising people, especially the lower risk individuals, to try to utilize our people, our resources in the best way possible. We would have to do what we have to do; however, I think the state has to understand that with less resources, there's less supervision and that's unfortunate. Did that answer your questions?

**Mr. Hicks:** It does. I guess my only follow-up question is why is that unfortunate?

**Chief Carpenter:** It would be unfortunate—by unfortunate is that if people, if a lot of people were released to the street and P&P had to supervise them, we probably are not equipped with the resources that we need to do the job or at least do it well.

**Chair Hardesty:** Seeing no more questions for Chief Carpenter, Chairman DeRicco, was there anything you wanted to supplement from your comments and has anything changed in the status of parole considerations and the acceleration of parole considerations that you've been involved in?

**Chairman Christopher DeRicco:** So, I think what you're referring to is our submitted emergency declaration that we've submitted on March 26<sup>th</sup>.

**Chair Hardesty:** Right.

**Chairman DeRicco:** I can tell you that last week on April the 22<sup>nd</sup>, I heard back from Governor's Office, General Council, that that the consideration was there and was being reviewed by the policy team and since that point in time have had no further updates with regard to that. And that's the only update that I have.

**Chair Hardesty:** Seeing no questions for Chairman DeRicco, let me pose a couple of questions to the Commission. First and foremost, in light of or on this record, does anyone wish to make any recommendations for consideration by the Sentencing Commission to recommend to the Governor and to NDOC concerning their strategies and approaches to protect the inmates and their staff from the COVID-19 issues?

**Mr. Arrascada:** Are we also considering the SAFER Plan in this part of the potential motions?

**Chair Hardesty:** That's exactly what I'm referring to. In light of the record that's been made in front of the Commission, are there any provisions in the SAFER Plan that a Commissioner wants this Commission to address over and above what the NDOC has already represented to this commission they are doing?

**Ms. Brady:** I had a question regarding the Coronavirus Aid, Relief, and Economic Security Act (CARES) funding and whether or not that is able to be applied for these releases or in combination with the plan, The SAFER Plan and how that would work funding wise?

**Chair Hardesty:** Okay, Director Daniels, do you or your staff have any information about any federal CARES Act funding for states yet? Ms. Brady poses the question and I'm rephrasing it a little bit, is there any CARES Act or federal funding that's been approved in the stages of funding because of the

COVID-19 crisis for state budgets or state correctional institutions?

**Director Daniels:** Sir, I'm not aware.

**Director Gonzalez:** The last I heard is that the GFO is the one who's spearheading any of those requests for the federal funding that's related to and in response to the crisis and then I think that would then go through the Interim Finance Committee (IFC) process as well. I'm not sure about the particulars of it, but that would be the place to start to find out exactly how those requests are being handled. And if you are going to submit one, it would be would start with GFO.

**Chair Hardesty:** Chief Carpenter, have you received any information about any potential federal funding for supervision agencies?

**Chief Carpenter:** There are a few grant possibilities that the Office of Criminal Justice Assistance (OCJA) has been discussing with our Division and our Department. But again, with grant opportunity come some struggles. You know, putting in for it and then maybe getting the grant, then it still has to be approved, etc., etc. So, the challenges are still there.

**Chair Hardesty:** I may be mistaken, but I didn't think that the federal government or Congress I should say, had authorized any we'll call it CARES Act funding for state governments yet, just direct appropriations.

**Chief Carpenter:** Oh, maybe I maybe I'm mistaken. There were two grants that we were dealing with yesterday, but maybe I mistaken, I'm sorry.

**Chair Hardesty:** Yeah. I think Ms. Brady's question is under the CARES Act and the CARES Act has been like the Paycheck Protection Program or the distribution of funds for individual family members, those kinds of things. I think that is the debate currently in Congress, where states are seeking federal funds to supplement their budgets, but I don't think that that's been acted upon yet. Now, maybe I have mischaracterized your question Ms. Brady, did I misunderstand the question?

**Ms. Brady:** I said the CARES Act because that's kind of been on my radar but if there's other funding, federal funding out there that can help us and help at least build some kind of an infrastructure with housing or you know, beef up our reentry, you know, abilities and you know, identifying from the stats that they gave, it sounds like there are quite a number of people where they're only impediment in being released is that there's a lack of housing or support. So, I just was throwing the CARES Act out there, but if there's other funding too, that would potentially be helpful.

**Chair Hardesty:** Dr. Salisbury mentioned earlier access to, and I think that was grant money, correct, Doctor?

**Dr. Salisbury:** I'm just looking at the solicitation now. And I did send it to Director Gonzalez, just so that she has it and can distribute it to the Commission members and to anybody else who want it. I do believe it is a grant that the deadline is May 29, 2020. I haven't looked at the stipulations. So, with regard to Chief Carpenter's comment and the complexities of going after grant money, they may have relaxed some of that, I don't know, but I'd be happy to look into it further. Yes, the Federal Department of Justice, through the Bureau of Justice Assistance has Coronavirus emergency supplemental funding, in the amount of \$850 million for public safety agencies. I'd encourage, certainly, the Department of Sentencing Policy to consider applying for it too, given that they're staffed at 50%.

**Chair Hardesty:** Mr. Arrascada, we'll circle back to you and then I'll repeat my question. Are there any provisions in the SAFER Plan that this commission would like to recommend to the Director or to the Governor that are not already being undertaken or addressed by the NDOC? Mr. Arrascada?

MR. ARRASCADA MOVED TO THAT THE A COMMISSION SUBMIT A LETTER TO THE GOVERNOR AND TO THE PARDONS BOARD URGING A RELAXING OF THE STATUTES WITHIN ITS AUTHORITY TO CONDUCT RESPONSIBLE DEPOPULATION OF THE PRISON SYSTEM, UTILIZING A FRAMEWORK OF AT-RISK PEOPLE PURSUANT TO THE CDC GUIDELINES AND THE SAFER PLAN PRINCIPLES.

MR. STORY SECONDED THE MOTION

**Chair Hardesty:** Thank you. Is there any discussion on the motion?

**Vice Chair Callaway:** Last meeting we had a pretty divided vote to recommend that the Pardons Board convene early to review potential release of certain inmates in NDOC, and now we're taking a motion to basically compel the Governor and/or the Pardons Board to look at a process that's outlined in this SAFER document, which we have been given.

My question, I guess is this: the Director, over two meetings, has provided us great detail on what he's been doing within the NDOC to mitigate this virus, to ensure the safety of inmates, to ensure the safety of his staff and the public. He has answered numerous questions and has had his medical staff available to answer questions. He's invited folks to come tour and partake in a town hall at his facilities.

My question is this: my understanding is that the Governor through executive order, already has the authority to implement a depopulation based on whatever criteria he sees fit. Whether it's the SAFER Plan or whether it's some other plan. And if the Director, in his expertise, running that facility believes that he's reached a critical stage where lives of inmates and staff are in grave danger because of the current population, doesn't the Director currently have the authority to reach out to the Governor and request the Governor take action?

The Director is part of this Commission. I just don't understand or maybe I am asking for clarification the need for this body to collectively urge the Governor to take some type of action when the Director already has the authority, I believe, to urge the Governor to take that action if he sees it as appropriate.

**Mr. Arrascada:** I'm not sure if that's a question or a comment upon the motion. The motion has been made and seconded; I think that we move forward.

**Chair Hardesty:** Okay, Chuck, is there a question you wanted to ask of someone in particular? I don't know if it's a statement or a question that you have.

**Vice Chair Callaway:** I guess my question would be, number one, doesn't the Director currently have the authority to ask the Governor to, through executive order, depopulate the jail in a manner that the Governor and he believes to be appropriate? Whether it's the SAFER Plan or some other plan I guess that's my question. And then second, if so, why do we need this motion?

**Chair Hardesty:** Well, with respect to your first question, I'm not offering a legal opinion and I can't. I would just observe that the extent of the Governor's authority—the Director has the authority to ask whatever he wants of the Governor, I think. The question then is what authority the Governor has to depopulate the prison without involvement of the Pardons Board. I don't know the answer to that. I'm

just posing that as a question myself. And, it is an issue I think that is out there. I don't know the answer to it.

The question is whether or not, as I understand the motion, it's necessary for this commission to recommend that the Governor undertake that action and under those standards. And I think Commissioners can decide for themselves whether or not that is wise or unwise, but I do think that there is a fundamental question about the extent of the Governor's authority and because that issue is implicated in a pending case, I'll be abstaining on this whole process anyway, or on this whole motion anyway. I have to.

Are there any other comments with respect to this issue or this motion?

**Ms. Mull:** It's a half comment, half question. We had a presentation earlier about the other 49 states and what they've been doing and there were several things in there that were not specifically in the SAFER Plan. Are we just putting up the SAFER Plan and not these other lists of things we've seen such as no early release of sex offenders or domestic violence offenders or you know? That's part number one. Number two is, are we also going to recommend and have some kind of assurance that there's going to be social services available for the people that are released early? We've heard from P&P, about their very limited access for people they already have on their list and I know that our current domestic violence shelters and things to that extent, we are overwhelmed at the moment across the state with the amount of people that need help and the limited ability to help them.

I want to make sure that the second part of that is that we also recommend, if we're going to release these people, that we also have resources and things in place to help them and make sure that they're not put in a position to either re-offend or to go in survival mode, where you know, people may do things they would not normally do they are trying to survive because there's limited housing, food and employment.

**Chair Hardesty:** Mr. Arrascada, would you like to respond to Ms. Mull's questions?

**Mr. Arrascada:** Sure, that's why I called it responsible depopulation. We're a recommending board. We can make a recommendation to the Pardons Board and the Governor to consider responsible depopulation of the prison and then utilizing the framework, as I said, of the CDC guidelines and the SAFER Plan principles. Her question I think is answered in calling it responsible depopulation.

**Dr. Salisbury:** To reference to Chuck Callaway's questions, based off of a media story from the *Nevada Independent*, Governor Sisolak has publicly acknowledged that he's waiting for the recommendations from the Sentencing Commission. "They've given me no definition thus far. I've got no recommendation from the Sentencing Commission", he said, "I'd like to know what their recommendations are, because they're there for a reason." So, if we can trust that is accurate, it seems like in order to move forward, we need to provide some recommendations and I'll leave it at that.

**Vice Chair Callaway:** I really appreciate what was just said. If the Governor—I didn't see that article, but if the Governor has made that statement publicly, then certainly, we want to give the Governor the tools that he needs, but I also want to make sure that we're supporting the Director and he has the tools that he needs and what he feels is best for his facility, which he's in charge of running.

I guess, maybe and I don't know if it's possible to have a second motion, or a change of the motion, but in my mind, I'm just thinking out loud here, I think that a motion along the lines of what was given, however saying that we encourage the Governor to work with Director Daniels on the protocol for the depopulation, using the SAFER Plan as a potential guide.

I think in my mind, I guess what I'm getting at, the two things that are kind of a hard pill for me to swallow is, number one, going basically around the Director and saying—okay, Director, you've told us all the great things you're doing, you've told us all the steps you've taken, all the measures you've taken to make people safe, but yet, we're going to go around you and go to the Pardons Board and say, here's what we want you to do.

I think that the second hard pill for me to swallow is just adopting the SAFER Plan in and of itself. I think the vast majority of what's in the SAFER Plan is really good. But when I read the SAFER Plan, there's references in here where they consulted with corrections officers, but who were these corrections officers? It doesn't list what agency they worked for; it doesn't list the size of the facility they worked in. It says, P&P Officers, but it doesn't list those individuals that they coordinated with.

They start off in their initial summary talking about United States overall, how many people are incarcerated, which immediately makes me think that the folks that were behind this maybe have ulterior motives besides strictly the welfare of people during a pandemic. And then finally, there's comments in here that, in my opinion, at least for our facilities are completely untrue. That inmates lack hygiene products in jails, typically. Where does that come from? I know that in our jail, in the CCDC, inmates have total access to hygiene products, whether toothpaste, soap, running water, and you know, in a minute when I talk about the steps we've taken in CCDC, we've issued PPE equipment to inmates. The Director talked at length about hygiene available to inmates.

So, again, I don't know where some of this information in this SAFER Plan comes from, but just saying that I want to adopt this plan as the one that the Governor should use, I kind of have a hard time with that. I certainly think the Director could be able to reach out to the Governor and say hey it's time to depopulate my facilities for the safety of everyone and here's the protocol. Yeah, there are things in the SAFER Acts that are great, that we should use as a guide. Maybe there's a couple things in here that we don't think are relevant to this particular time, but I think that's my point of view based on the conversation I've heard and I know I'm probably the odd man out here, but that's just my perspective.

**Judge Freeman:** As representing the Chief Judge in the Second District and also the only member of the judiciary that can participate after Judge Hardesty has indicated that he has to abstain. Vice-Chief Callaway is not alone. On behalf of the judiciary, we're the ones that put the people in prison. So, as a consequence, I'm opposed to the motion. And, during this discussion period, I wanted him to know, he's not alone. I feel very strongly under the circumstances that the Director of NDOC in his detailed analysis and answer to our questions was very satisfactory to me. Under the circumstances, I feel him very much in charge, understands what should occur and on behalf of the judiciary, we're the ones that put those people in prison and I'm not interested in letting them out without a reasoned, appropriate approach. That's my recommendation is to leave it to the experts, like the Director of NDOC. That's what I'm weighing in at and that's my opposition to the motion. Thank you.

**Chief Carpenter:** Mr. Arrascada, I would like us to define "responsible", because I don't really know what that means. Your responsible and my responsible could be different. Number two, Dr. Salisbury talked about recommendations. And so, I don't understand exactly what recommendations we're making. I get the SAFER Plan and that sort of thing, but I don't think they're laid out as well as they could be. Number three, Director Daniels has talked about all the things that NDOC is doing and if we take people that are outlined by Centers for Disease Control (CDC) to have all these underlying conditions and we let them out, aren't they safer where they're at? I'm confused with that. And four, I was thinking that if we were going to ever do something like this, wouldn't we look at the crimes that people committed and how long they're on for and that sort of thing and not because they have an underlying health condition? So, those are the four things I wanted to bring up to the group.

**Ms. Brady:** Thank you, Your Honor. Are we able to have a working group of the Sentencing Commission, that might include people outside the Sentencing Commission? For example, it's my understanding that the Governor relies on several health officials when making his directives, various directives and so forth, and I'm wondering if we can bring together some of those health officials, as well as, some of us on the Sentencing Commission and NDOC and P&P to meet with them and come up with some recommendations for the Governor. Some more like, specific guidelines as Mr. Arrascada said, "responsible" release.

**Chair Hardesty:** Well, that is an option I suppose, if the Commission is interested in pursuing that, but at the moment, the issue on the table is the motion that's been framed.

**Mr. Arrascada:** I believe Vice Chairman Callaway made a motion to modify the motion I made to incorporate that, where I talk about the Pardons Board under its authority that also that the Governor and the Director of Corrections hold meaningful discussion regarding responsible depopulation. I'm willing to accept that modification to my motion.

**Chair Hardesty:** Well, we get into Robert's Rules, so let's back up. Is this second to your motion, Mr. Story, willing to accept modification?

**Mr. Story:** Yes.

**Chair Hardesty:** So, then I think it is necessary, Mr. Arrascada, to restate the motion with that modification and then we'll proceed with the discussion.

MR. ARRASCADA AMENDED HIS MOTION TO ASK THE PARDONS BOARD AND GOVERNOR TO RELAX THE STATUTES WITHIN THEIR AUTHORITY REGARDING RESPONSIBLE DEPOPULATION OF OUR PRISON, THAT INCLUDES MEANINGFUL DISCUSSION BETWEEN THE GOVERNOR AND THE DIRECTOR, AND THAT THEY UTILIZE THE FRAMEWORK UNDER THE CDC GUIDELINES AND ALSO THE PRINCIPLES OF THE SAFER PLAN.

MR. STORY SECONDED THE MOTION.

**Chair Hardesty:** All right. Is there any discussion on the revised motion?

**Dr. Elizabeth Neighbors:** If this motion goes forward, would the Commission then get a plan back with specificity to consider about what the actual proposal going forward or the decisions about that depopulation were going—how they were going to happen? Would we get then the plan to review or how would this proceed?

**Mr. Arrascada:** We are a recommending board. This is a recommendation to the Pardons Board, the Governor and the Director urging them, within the framework as stated, to then come up with a depopulation plan or process using the CDC Guidelines and the SAFER Plan as their kind of hallmark principles.

**Mr. Imlay:** If we look at one of the letters that was submitted by the Federal Public Defender, they give more specificity with regard to groups that the Governor could look at. For example, individuals already granted parole, but not yet released. Vulnerable persons within 18 months of parole eligibility and they give the definition for vulnerability. Then for some of those that have made comments about the non-violent offenders, one of the recommendations is all non-violent offenders, three years from parole. If

we wanted to include more specificity or more direction for the Governor or the Pardons Board, those are some alternatives as well that can be done.

**Chair Hardesty:** Well, certainly that's something that could be done, but we have a pending motion. Are you wanting to amend the existing motion?

**Mr. Imlay:** I'm good with the motion as is, but that would be an alternative if there was more support for an alternative. I support the motion from Mr. Arrascada, as proposed.

**Mr. Ponder:** I think I stand with Vice Chair Callaway and with the comment that Judge Freeman made that we should lean towards the Director, as he being the expert in it, just as Judge Freeman said that he's responsible for putting people there. You know, there are service providers that are in this community, including ours, that are responsible for people, who once they get released to make sure we're doing everything we can to help them be successful. You know, I'd like to know exactly what the responsible depopulation is, what that's going to look like and I'm just going to make the comment to make sure that it's not an irresponsible depopulation. This is what my bailiwick is. I'm on the ground every single day. You know, the 400 or 500 people that we're working with that have already got out of the prison, they're hurting right now on the streets. They have no jobs, no place to go. We're trying to raise money so that we can be able to provide for rent for them.

I guess the question would be, what does this responsible depopulation look like and are we being irresponsible in providing service to some folks that, yes, we want to get them out, we want them to be safe, but is it—based on what the Director said, right and the comments that he's made, and some of the things I've personally seen while I was inside the institution, you know, is it safer for them—and again, this is a question, I'm not—I'm not making a statement. I'm making—I'm posing a question, is it safer for them to be where they are based off what the expert and Director Daniels have indicated, as opposed to us, you know, responsibility depopulating the prison?

**Chair Hardesty:** Is that a question posed to any particular person or to the maker of the motion or are you posing it rhetorically?

**Mr. Ponder:** What I'd like to do, you know, maybe the maker of the motion or anyone on the Commission, if we could talk about, what does that mean with the responsible depopulation and what does that look like?

**Mr. Arrascada:** I'm going to be a little bit repetitive and redundant here is that it's being left in the very capable hands of experts in the Governor, the Pardons Board, and the Director to conduct responsible depopulation. I think we have to, as the captain of detention here at Washoe County stated, they have no positive tests, but they'd be naïve to think that they're going to get off—that it's not going to happen.

All it takes is one. We have inmates that are within their cells, together, 22 hours a day. Or, for lengthy periods of time. It's not a healthy situation. We can see that from other prisons throughout our country that they are in tinder boxes. If we can depopulate to where there can be meaningful social distancing within the prison, I think it's a win for everybody. I'd ask that the motion go forward.

**Mr. Marsh:** I think I support the motion and I think the question right now is, do we look at a responsible plan like Mr. Arrascada has proposed or do we do nothing? Right now, we're one of only 17 or so states and I do very much appreciate that Barbara took all that time, and her staff, to put that together. It's really quite a great service about what type of factors should be taken into account. Which are also the factors in the SAFER Plan, my own experiences on the federal side, somebody mentioned the CARES Act earlier, there's actually a criminal justice component to that, where the Attorney General and the

Bureau of Prisons Director were instructed to go out and identify people who met the criteria for release. They're going to include things like age, health factors, time until release, underlying factors, [inaudible] and even [inaudible] which I'm sure Judge Freeman would appreciate where if people are denied, they can go to the Judge that sentenced them and get out. That's something that [inaudible] work under our statutory framework we have in Nevada. It's something to think about in the future. It actually was based on the First Step Act that was passed a couple of years ago.

What I would propose is, I support the motion. I also think we should be looking to the Director of NDOC to help with this effort. To actually do [inaudible] what's going on in the federal prisons where wardens are being asked to actively identify [inaudible] should be released, instead of just a blanket, do nothing [inaudible] like we're doing now. So, again, I support the motion. Thank you.

**Ms. Mull:** First, let me say I'm pro-criminal justice reform. I am pro-depopulating our prisons as a whole. But I feel like using COVID-19 as an excuse to do that or having not specifically defined definition of responsible makes me nervous and scared, to be honest. The fact that my rapist can get out of jail six to 18 months early because he has asthma, when the average length of prison term is only 4-5 years to begin with. Or that because someone's over 65 and they're a sex offender, they could get out. I've been raped by more men over 65 in my life as a child that I can even comprehend or count. So, to think that there's no specifics defined as what's responsible in our recommendation, makes me scared.

I saw some great things, I feel in the list of all the 50 states, of what some people are doing. I feel like are more specific than just the SAFER Plan. I think if we could add some specifics or add some type of measure of getting to review what responsible is, I'd feel safer in that, but—as a survivor, I'm very scared with the idea of just leaving that as a blanket statement and not knowing what that specifically is. Thank you.

**Assemblywoman Nguyen:** I just want to be clear, the motion that is on the table is just—I wrote it down so I'm reading here. It's just to make a recommendation to the Pardons Board to consider a responsible plan for release, is that—utilizing SAFER as a guideline. Is that correct?

**Chair Hardesty:** I'll ask the Director, is that your understanding of the motion?

**Director Gonzalez:** The way I understand the last amended motion that is making a recommendation that includes—a recommendation that the Pardons Board, the Governor and the Director of NDOC work together to relax the statutes within their authority towards a responsible release plan to depopulate the institutions and have a meaningful discussion utilizing the framework of the SAFER Plan and recommendations from the CDC.

**Assemblywoman Nguyen:** I want to go on record saying that I do support that motion and I fully trust the Governor, the Pardons Board and the Nevada Department of Corrections, especially after hearing what they've had to say, you know, about the things and the steps that they've taken. I believe that they are in a position to best examine how they define responsible, since they do it on a daily basis anyway.

And, I'd also point out that there's a lot of crossover and it's easy but I feel like we've kind of gone down a wormhole where people are confusing criminal justice reform with dealing with an immediate fatal global health pandemic. And I'd just like to bring it back because I think there is some urgency in this as we can see by the sheer number of deaths that, I think there is a place and there's probably a place on this Commission, to discuss overall criminal justice reform. But I really see this motion as being a starting place to put the people that are professionals, that deal with this kind of thing, to come up with a responsible plan or to consider. We're not even telling them to enact one, we're telling them to consider one with, the SAFER Plan as a guideline.

They can obviously take from what they see that was presented in other states that is working well and how they define responsible, how they determine who is eligible and I think we can look at you know some of our local jurisdictions like the Clark County Detention Center. We trusted the Sheriff to make those decisions on how to depopulate responsibly and safely pursuant to like that district court order I am in support of this. I see this as putting the people that have the knowledge in the position to make those specific considerations for what is responsible and I trust them based on the presentations that they've made, based on the representations that we have done so far and I'll just leave it at that. Thank you.

**Dr. Minev:** I just wanted to offer an opinion that if we're looking at our entire population of inmates and looking at chronic conditions as a criteria in terms of those causing immunocompromised that might cause the individual to be more susceptible to COVID-19, we could be looking at literally hundreds and hundreds of inmates that could be potentially released into our communities, which could very easily overwhelm the State of Nevada's capabilities to provide proper health care to the individuals.

You have to remember that in Southern Nevada we probably have just a couple hundred even maybe less ventilators at all of our hospitals in Southern Nevada. The other thing to consider also is that we are likely—this is likely just one spike in this pandemic. There probably will be other spikes in the years to come. There has been the promise of a vaccine in 12-18 months, however the fastest vaccines produced in the past it's been three to four years.

So, I think 12-18 months is a very optimistic view of the end of this pandemic and we're likely going to have other spikes. So, if we do take this into consideration, we have to take a look at possible spikes of this pandemic in the future and how will that affect the ability of our state to provide the proper health care to this influx of individuals and into our community.

**Mr. Hicks:** I think we need to go back to the very foundation of what we're talking about here and that is simply we are contemplating as a Commission, recommending the release of inmates who are serving lawful sentences. These are inmates that, through their behavior, through the crimes they committed, were deemed dangerous enough or worthy enough of punitive measures that put them in prison. Judges considered these, lawyers argued on both sides and these were the results of what justice decided.

And now, we're honestly talking about recommending that the Pardons Board start releasing people that were subject to those sentences, people the left victims in their path, people that have done serious crimes. It's not easy to get in prison nowadays, I can represent having been a prosecutor for 18 years. Truly, the people that are in our prisons are of the type that we would expect to be in our prisons. The narrative to the contrary is just not accurate. And we're contemplating this in spite of the extraordinary work that Director Daniels has done, better than then I've heard anywhere in the country, and there are no positive tests.

So, just starting at that baseline should be enough for us all to step away from this motion, but to add on to it. Within the motion is the recommendation of the SAFER Plan. The SAFER Plan, I have immense concerns with. It is incredibly overbroad. It lacks definition. Assemblywoman Nguyen talked about how we're kind of conflating the pandemic and criminal justice reform.

When we think about that, we need to look at the organization that this SAFER Plan comes from and that's the Reform Alliance. I don't know if any of you read their mission statement. Their mission statement is "to dramatically reduce the number of people who are unjustly under the control of the criminal justice system. To win, we will leverage our considerable resources to change laws, policies, hearts and minds." When you go to their About Us webpage, it says, "our collective disgust with the

current state of the American criminal justice system is creating a powerful growing alliance that spans different backgrounds, industry and political beliefs. We won't stop until we've changed the laws, policies and practices that perpetuate the horrific injustice we're seeing in America.”

Now, I think we can all agree, we all have different views on this Commission, but that's extreme. And that's who this SAFER Plan recommendation is coming from. And when you look at it, earlier I believe it was Mr. Imlay said, you know, we're not talking about violent offenders, we're not talking about the types of releases that would shock the community, but that's just not true. When you read the SAFER Plan and they talk about recommended prison releases, they simply recommend releasing persons incarcerated who are within six months of release. There is no qualification of what type of crime. There is no qualification of whether or not it was violent or non-violent and then they further say, release those persons from incarceration implementing house arrest, electronic or other measures as necessary for the balance of the term of their incarceration.

We have already heard from Chief Carpenter. We can't even get the people that have been paroled out and supervised. How are we going to do it with all these people in that vast amount of inmates that fall within that category? You move to their next one, technical violations. “Any person who is incarcerated due to a technical violation”—now in Nevada, pursuant to AB 236, a technical violation is any violation that is not a felony, a gross misdemeanor or absconding. So, it could be any misdemeanor, it could be a domestic violence, it could be a DUI, it could be drug use. Any of those people they also could be released to house arrest, electronic monitoring, again, of which the system has no capabilities.

And then lastly, they recommend compassionate release, and this is just an overreaching pulling on your heartstrings kind of recommendation of let's release the elderly who are in there. Well, you know, you often hear the age of 60 or 65, that's qualifying as elderly. I know a lot of people over 60 who don't consider themselves to be remotely elderly and I also know a lot of defendants that we've put away over the last five years that have done some very serious crimes that were over 60 years of age.

And so, the SAFER Plan would result in, if followed, would result in such a massive release of our inmates, despite the fact that we have no outbreak in our prisons, that it would overwhelm our Division of Parole and Probation that is already facing cuts, it would—and I believe this. I'm a prosecutor, so I'm usually arguing the prosecutor side of things, but I am a firm believer in reentry programs. I genuinely want to see people succeed. And I can't tell you the respect I have for what Mr. Ponder is saying. That's his industry and he, himself is saying, we should not be releasing these people without finer constraints. They have nothing out there for them. It would be uncompassionate to just release all these inmates without a proper plan, without proper resources. It's not safe for them and it's not safe for our community. That's the one thing that is not being talked about. What about the safety of our public and we're releasing inmates into the community now?

The one last thing I want to say about inmates. According to Director Daniels and the Medical Director, there are 12,000 plus inmates. There are no positive tests. If you look at the population of Nevada and divide that by the positive tests in Nevada that's about one out of every 640 people get COVID-19. That's just general population; that's not even considering at risk like homeless or vulnerable drug users or substance abuse users. In the prison, we're zero for 12,000.

So, I have a hard time believing that they're going to be safer when they're released and I feel strongly about that in the fact that there's no housing, no jobs, no resources. We can't even release the 398 people that have already been granted parole. I appreciate everybody's comments, but I think that this motion is incredibly premature. There is no reason to recommend any kind of release of these lawful sentences that are being served. I'm a strong “no” against this motion and encourage others to be so as well. Thank you.

**Director Daniels:** I've given this great thought. I feel compelled to share my thoughts regarding criteria I would use in identifying inmates for early release consideration. However, please understand my statements have not been vetted through the executive branch policy or legal staff. So, this is all Director Daniels.

Release of inmates is not a trivial matter. Public safety is paramount and must be taken into consideration with every decision and recommendation. What are we releasing inmates to? We still have not addressed core survival issues an offender will encounter when released. Let me repeat them. Lack of jobs, no source of income, no housing or shelter, limited to no health care and special consideration regarding the release of sex offenders. Someone tell me where the sex offenders will go? I don't know if they'll be on the final list.

However, when we're looking at what's been stated so far, for instance, responsible depopulation. What is vulnerable? What is a compromised immune disease? If you could just qualify on those general terms, I know my inmate population, that'll be the vast majority of my inmates, but I'm still a citizen of the state of Nevada and I still believe in what is good and right about protecting the citizens and although there is a motion—this motion is too general. I would be more than happy to participate in a group at a moment's notice in helping to define what some of these—these terms are, but I would be remiss if I stood idly by and allowed this to move forward through either abstention or not offering an opinion at all.

I am 100% on helping define. I get it; I understand it. But as previously stated, this is serious. Those are my comments. Thank you.

**Chair Hardesty:** As previously announced, I'm abstaining because of a pending, actually more than one pending case in front of the Supreme Court related to this subject.

MOTION FAILED: SEVEN YAYS; TEN NAYS; ONE ABSTENTION

**Chair Hardesty:** Are there any other motions or discussions on this agenda item that the Commission would like to make?

MR. IMLAY MOVED THAT A LETTER BE SENT TO THE GOVERNOR THAT WOULD INCLUDE A DEFINITION AS FAR AS CATEGORIES THAT THE GOVERNOR SHOULD CONSIDER, INCLUDING INDIVIDUALS GRANTED PAROLE BUT NOT YET RELEASED, VULNERABLE PERSONS WITHIN 18 MONTHS OF PAROLE ELIGIBILITY WITH VULNERABLE BEING DEFINED AS A DEFINITION SET OUT BY THE CENTER OF DISEASE CONTROL, THE WORLD HEALTH ORGANIZATION, INCLUDING OLDER ADULTS, PEOPLE OF ALL AGES WITH VARIOUS UNDERLYING MEDICAL CONDITIONS. LASTLY, ALL NON-VIOLENT OFFENDERS, THREE YEARS FROM PAROLE WHO HAVE DEMONSTRATED EQUIVALENT OF AN APPROVED PLAN—PAROLE PLAN.

MR. ARRASCADA SECONDED THE MOTION.

**Chair Hardesty:** Any discussion on the motion?

**Ms. Brady:** The motion is a little similar to what I think I've asked a couple times but are we allowed to have a working group where we could really detail these things? The letter assumes we've already gotten together, and we figured it out, but shouldn't we get a working group to put together some really detailed recommendations?

**Chair Hardesty:** If the Commission wants to entertain a subcommittee of this Commission, you can certainly consider that. I don't think the statute allows for that, in my memory. The Chair, I think, is permitted to appoint subcommittees that might include non-members of the committee but that was under, I think a, under the ACAJ statute, not under this statute. I think the answer is no, at least from my memory, Ms. Brady.

**Mr. Story:** I have a question of Director Daniels. How long or how quickly could he compile a list based on those criteria and get that to us at the Sentencing Commission and additionally the Parole Board and the Governor's Office?

**Director Daniels:** As stated previously, I would work feverishly with a group of individuals to define some of these criteria. Tomorrow's not a good time because I have to testify before another committee. However, I'm deeply committed to this topic. I want to not only be heard but help guide and help understand so I would tell you, as soon as possible, beyond tomorrow. Obviously though, I can only speak for my schedule and time, but I would certainly make this a priority.

**Ms. Brady:** When does the ACAJ next convene?

**Chair Hardesty:** Assemblywoman Nguyen, you're the Chairperson of that Commission; I'm not sure that there is another date that's been scheduled.

**Assemblywoman Nguyen:** We do have another date. The next date for the ACAJ is June 11<sup>th</sup>. But I do have the ability to, in the interim between meetings, to convene working groups. I'm actually emailing as about having a subcommittee. So, we do have the ability to address that.

**Vice Chair Callaway:** I know we're beating a dead horse here, but to Director Daniels, if sir, you felt that things in your facilities were getting to a point where depopulation was necessary to save lives and to reduce spread of the pandemic, I'm assuming that you and your staff would have a protocol for approaching the Governor's Office, meeting with the Governor's staff, his general counsel, to sit down and identify, based on all of the plans that we've seen.

When I look at the list that CJI gave us, multiple states have executive order, executive order, executive order. New Jersey, Washington, and Philadelphia, I think, executive order. So, you have the ability currently to approach the Governor and say sir we need to depopulate my facilities. Here's my recommendation and take those steps yourself. Just like the Sheriff did here in Clark County when he realized that we were seeing cases inside CCDC and we needed to take steps, is that correct?

**Director Daniels:** That is not an assumption. That is accurate. I would certainly have the ability to approach the Chief Executive Officer and make recommendations based on my experience and knowledge and current circumstances.

**Vice Chair Callaway:** Thank you. And I personally feel there would be nobody that would know when that time was better than you, yourself, sir. Thank you.

**Mr. Hicks:** Director Gonzalez, can you read that motion again, please?

**Director Gonzalez:** Please correct me, whatever I missed, Mr. Imlay. The motion before the Commission at this point is to send a letter to the Governor to consider a definition of categories of individuals to release. Those categories would include those who have been granted parole but not released, those who are vulnerable and based on the way using the way that the CDC defines this term

to include older individuals and those with underlying conditions. The categories would also include those offenders who are non-violent and who have an approved plan for re-entry or release.

**Mr. Hicks:** I'll rest on what I've already said on the last motion, but I do just want to highlight again, the seriousness of trying to overturn just decisions that have already been made despite any active threat actually existing in the prisons.

A couple points to be made based on this particular motion. Older individuals according to the CDC, again, as I mentioned before, those individuals commit very serious crimes. I have a list in front of me that was given and given to me by the Director of my Child Advocacy Center of recent defendants who have been convicted of very serious sexual assault abuses on children. And of the 1, 2, 3, 8 she gave me, they're all over 60 or 65, serving massive sentences and I'm sure they would qualify under the CDC. And those cannot, should not, ever be the type of people facing COVID-19 or not, that we should be talking about releasing.

The mention of non-violent offenses. Nonviolent offense is difficult to define. If we just throw out non-violent defendants. Well, what is a non-violent defendant? If we look at NRS statute, the definition of violent crimes excludes, not included, child abuse, child neglect, child abuse causing substantial bodily harm, elder abuse, arson, residential burglary, home invasion, DUI causing substantial bodily harm or death. Those would not qualify as violent crimes and would be subject, according to this motion to consideration of release. And another one animal torture of which there's defendants in prison for that, that would be considered potentially for release when those are clearly violent crimes. Those are very, very much so the types of crimes that the public expects to be in prison.

Again, I'm a strong "no" on this. I still believe it's premature I think Director Daniels is doing a great job. And as he just said, he would never hesitate a second to go to the Governor if he felt there was a need. And we've seen his actions they speak volumes we know, I believe I know he will do exactly what he says he would do and then again we cannot escape the harsh reality that there is nowhere for these people to go. No jobs for them to find, no resources for them to get. It's actually contradictory to AB 236, in my opinion, what we're talking about doing, because we're talking about casting people out into the stream without any type of life saving device. We're just saying go for it and that is not going to work. We all know that. We've heard enough in this Sentencing Commission and frankly it will result in more victimizations and failure by those defendants. It's just not right at this time.

We don't need to recommend it. The Governor can do it if he wants. Thank you.

**Dr. Salisbury:** As a criminologist, I have to be in shock about some of the assumptions that are being thrown around about justice involved [inaudible]. First of all, that one of the iron laws of offending and criminality is that people age out. The vast majority of people who are incarcerated and commit crimes age out by the time they're about 30 years old. I don't dispute the fact that that looks very different with people who commit sex offenses and sexual assaults and I agree with Mr. Hicks about that point and with a number of other people. But to simply throw around this idea that age doesn't matter, it's one of the best predictors of crime. I think, you know, we need to keep that in mind in terms of the vast majority of people who are committing crimes eventually age out and do desist.

I'd also like to say that some people do have places to go. We have a number of public commentary that indicates there a number of individuals that do have housing, that do have support and so to just take it off the table completely, provides too many false assumptions that are being thrown around on behalf of justice-involved people. I felt like I needed to say that in terms of some of the things that, you know, are being said today. Thank you.

**Mr. Marsh:** I'd like to make a motion to amend Mr. Imlay's motion to also include felony sex offenders so he said non-violent and I would also add in people who were not convicted of felony sex offenses. And that would [inaudible] Mr. Hicks and a lot of other people on the Commission's concerns in that area. That's been a major topic of opposition to this. You know, I was a prosecutor for 20 years, so I understand where Mr. Hicks is coming from, but I think that we can find some sort of middle ground.

**Chair Hardesty:** Thank you, Mr. Marsh. Let me first ask whether Mr. Imlay is interested in amending his motion as Mr. Marsh suggests.

**Mr. Imlay:** I don't know if a sex offense would not fall under the violence.

**Mr. Hicks:** It does fall under NRS 202.876, which is violent offenses.

**Mr. Imlay:** Okay. So, based on that, I would say, I'm not willing to amend as it's covered in the motion, in the category.

**Chair Hardesty:** Is there a second for Mr. Marsh's to amend? All right, hearing none, the motion to amend fails. Any further discussion on the motion?

**Chairman DeRicco:** I believe there's a part of the motion that was brought up by Mr. Imlay, he spoke about having vulnerable persons within 18 months of parole eligibility qualify, as well as all non-violent offenders three years from parole to be looked at as a review on this. And I wanted to state that I looked through what CJI has presented to us and there is nothing with regard to any other states looking at anything that far out. They're looking at six months from expiration. That's also part of the SAFER Plan as well. In my view, this 18 months and three years out seems to be way off mark with what the other states are doing.

I do also want to bring up for the record that as a part of AB 236, we now have, or we will have in statute effective July 1, 2020 which is the geriatric parole statute. And why I bring this up and I think that it's important is because this is one of the points where it's been very difficult for me and I know it's been brought up several times, that we really haven't defined and we have as agenda item 7C states consider recommendations to the Board of Pardons Commissioners for categories of potential inmate releases.

Well, in this statute that I just mentioned and I'm going to go over some of the things that it covers because it really goes along the same lines of some of these issues that we're talking about with COVID-19 right now. One of the parts of the statute says, they had to be 65 years of age or older and have served at least a majority of the maximum term of the maximum aggregate term. It also says, crimes that don't qualify: a crime of violence, a crime against a child, a sexual offense, vehicular homicide, other DUIs. Has been found not to be a habitual criminal, is not serving a sentence of life imprisonment without the possibility of parole, does not pose a significant risk to public safety.

So, in our last session, these things here that I think that we're discussing here or try to, we haven't got down to narrowing this down to what it exactly should look like. It's so gray. And when we're talking about 18 months or three years which isn't in line with what all these other states are doing, and then here we have at least a definition of geriatric parole that goes into effect on July 1<sup>st</sup> and then when that's considered, additional factors to consider as well are the prisoners age, behavior while in custody, potential for violence, and the reported severity of any illness, disease or infirmity of the prisoner and lastly, any available alternatives for maintaining geriatric inmates or inmates who have a medical condition in traditional settings.

I think if something is being looked at to be done here and to be forwarded to the Pardons Board or the Governor, the Governor had already stated, according to what Dr. Salisbury mentioned in the news, in the article is they wanted specific recommendations and we've done none of that. We've just kind of thrown something in there.

But as a part of AB 236, there's a lot of good and hard work that went in. And I bring up this statute because I believe that there could be a lot of correlation to particulars that could be looked at, if that's something that wanted to be viewed or vetted out. But instead of the gray or the overly vague areas, that's where I have the issue here and I think that it really should—if we're going to make recommendations, they should be specific.

And lastly, the one thing I brought up at the last meeting and I haven't heard it once here today again is Marsy's Law and victim rights that is a part of our state constitution now. Very, very important to note that victims' rights be considered and that's all I have. Thank you.

MR. ARRASCADA MOVED TO AMEND THE MOTION TO SEND A LETTER TO THE GOVERNOR, TO CONVENE THE BOARD OF PARDONS TO CONSIDER RELEASING CERTAIN INMATES WHO FIT WITHIN A DEFINITION OF CATEGORIES PROVIDED BY THIS COMMISSION WHICH INCLUDE CONSIDERING THOSE WHO HAVE BEEN GRANTED PAROLE BUT NOT RELEASED, THOSE WHO ARE CONSIDERED VULNERABLE AND ARE WITHIN 18 MONTHS TO THREE YEARS OF RELEASE. AND, THE DEFINITION OF VULNERABLE WILL BE THE ONE USED BY THE CDC WHICH CONSIDERS THOSE WHO ARE OLDER AND HAVE UNDERLYING CONDITIONS AND HAVE—THOSE WHO HAVE AN APPROVED PLAN OF REENTRY AND THOSE OFFENDERS WHO ARE NOT CONVICTED OF CRIMES PURSUANT TO CHAPTER 200 OF THE NRS, CRIMES AGAINST THE PERSON.

DR. SALISBURY SECONDED THE MOTION. MR. IMLAY SECONDED THE ORIGINAL MOTION AS AMENDED.

MOTION FAILED: SEVEN YAYS; TEN NAYS; ONE ABSTENTION

**Chair Hardesty:** I'd like to follow-up on a suggestion or a comment that Chair DeRicco made, in which he identified a statute in AB 236 that outlines certain provisions that go into effect on July 1<sup>st</sup>. And I have a suggestion that I do not believe impacts my constraint to vote on the previous motions and that is whether or not the Commission would be interested in urging the Governor and the Director to consider, and the Pardons Board, to consider early implementation of the geriatric statute that becomes effective on July 1<sup>st</sup>, under the terms and conditions spelled out in that already enacted statute.

MR. MCCORMICK MOVED TO ENCOURAGE THE GOVERNOR, THE DIRECTOR, AND THE PARDONS BOARD TO CONSIDER EARLY IMPLEMENTATION OF THE GERIATRIC PAROLE STATUTE AS PROVIDED IN AB 236.

MS. BRADY SECONDED THE MOTION.

**Chair Hardesty:** Any discussion on that motion? I don't know that Commissioners have in front of them that statute. Chairman DeRicco, will you please reread the highlights of the provisions related to that statute.

**Chairman DeRicco:** In NRS 213.12155 which is the geriatric parole statute, effective July 1, 2020. It

says that in order to qualify an individual cannot have been convicted of a crime of violence. A crime against a child is defined by NRS 179D.0357. A sexual offense is defined in NRS 179D.097. Vehicular homicide pursuant to NRS 484C.130 or a violation of NRS 484C.430, which I believe is also a DUI, felony DUI law. It also says has not been found to be a habitual criminal pursuant to NRS 207.010, is not serving a sentence of life imprisonment without the possibility of parole and has not been sentenced to death, does not pose a significant and articulable risk to public safety and is 65 years of age or older and has served at least the majority of the maximum term or maximum aggregate term as applicable of his or her sentence.

Subsection 7 provides that when determining whether to grant geriatric parole to a prisoner, the board must consider the prisoner's age, behavior while in custody and potential for violence. Also, the reported severity of any illness, disease or infirmity of the prisoner and any available alternatives for maintaining geriatric inmates or inmates who have a medical condition in traditional settings.

**Chair Hardesty:** Thank you. Any discussion on that motion?

**Mr. Story:** Do we have a sense of what that total number would be from any one of the agencies, participating in the meeting? Would they know, have that number prepared, since July is rapidly approaching?

**Chairman DeRicco:** No, I do not. It has not gone into place and in fact we are also working on finalizing our regs on this statute to be ready for its implementation. But as far as actual numbers, I do not have that. I just brought it up earlier because many of the things in this statute seemed to correlate with some of the things that were in the CDC or are presently on their website with regard to the ages and a lot of the things that were presented by CJI with regard to exclusions that other states were looking at and that's why I brought it up.

**Assemblywoman Nguyen:** If there's anyone still here still from CJI, they had the numbers when we were discussing AB 236, at least during the session, during our work in preparation for that bill, they had specific numbers on how many people it would potentially apply to and that was back looking at data in 2019 and I can't remember the exact number, but I want to say was under like, it was under 15.

**Chief Carpenter:** I believe you're correct. I think it's even lower -- just a handful that we had when we were looking at it in 2019.

**Assemblywoman Nguyen:** I want to say like six or seven; it was really low.

**Judge Freeman:** Could the motion be restated please?

**Director Gonzalez:** The motion before the Commission at this point is to recommend to the Governor and the Board of Pardons to consider the early enactment of the geriatric release provision as provided in NRS 213.12155.

**Judge Freeman:** So, you're talking about a statute that's going to be implemented in three months and the motion on the table is to enact it now?

**Chair Hardesty:** Yes.

**Chairman DeRicco:** I want to bring this up for the group. We are in a holding pattern with the office closed to the public with regard to parole hearings and certainly there's some things that need to be

done, requirements as far as the forms to complete. There's more to the statute, like I said, I covered the main points of the statute in there. Right now, I've been waiting on emergency declaration or for the offices to open back up to the public. Just so you know, we say "enact now", individuals have to get on an agenda as well in order—so, if it was enacted, it takes about 60-90 days because we already have others set on the agenda. I want to throw that out there right now, that we are in a holding pattern until such time our offices are opened up to the public.

**Chair Hardesty:** Sure. One of the points that I thought was beneficial about that framework is that it could be a framework around which the Governor could operate if he chose to do so, not just reliant on the Parole Board and the processes in the Parole Board but the Governor could use that framework if he chose to do so. It's not a strict enforcement of the provisions of that statute early; it provides that same framework if the Governor were interested in using that framework to do so.

**Chairman DeRicco:** I thought the motion was to enact this statute early, so if it's not to enact the statute early and more for the Governor to look at this same framework, something along the lines of this statute, to move forward with, that's a little bit different than actually enacting I guess in moving this statute up. I understand that clarification now.

**Chair Hardesty:** The motion was to enact it early. To utilize the statute and treat it as enacted early. But in terms of a framework, it could also be utilized in that way.

**Mr. McCormick:** My intent in making the motion was that—to encourage them to look at implementing it early, not enacting it early. I don't think we can tell them to enact something that the legislature has set a date for when it becomes, but I think we can encourage them to consider the implementation of the provisions or use it as the framework. That clarifies my intent if that was unclear.

**Chair Hardesty:** Ms. Brady, is that acceptable to you in clarifying the motion?

**Ms. Brady:** Yes, Your Honor, thank you.

**Chair Hardesty:** All right, any further discussion on this motion?

**Mr. Arrascada:** And that only pertains to about six people is what we understand, was that the discussion?

**Director Gonzalez:** Correct.

MR. ARRASCADA MOVED TO AMEND THE MOTION TO APPLY TO AB 236 IN ITS ENTIRETY. THAT THE GOVERNOR CAN USE HIS EXECUTIVE AUTHORITY TO GIVE EFFECT TO ANY OF THE PROVISIONS IN AB 236 TO ASSIST IN THE DEPOPULATION OF OUR PRISONS.

MR. IMLAY SECONDED THE AMENDED MOTION.

**Chair Hardesty:** All right, there's an amendment to the motion. Is there any discussion on the amendment? To be clear procedurally, there is a motion to amend the original motion. The amendment would expand the original motion to accelerate the provisions of AB 236 and utilize those to assist in depopulating the prison. We'll take a roll call on the amendment.

**Mr. Hicks:** AB 236, again in this discussion we've had today about these sweeping, non-defined

recommendations we're making, that was a 157-page long bill with 137 sections. That's a massive criminal justice reform omnibus bill. I don't know that this Commission in just in that quick order is ready—should be in a position to recommend that we move up the effective date of AB 236. It's a dramatic shift of all of our criminal penalties, of what potential sanctions can be. In fact, the legislature gave us over a year to implement it, just because of the significance of it.

In case everybody in the Commission isn't aware of that, I wanted you all to know that this is an extensive change to the system.

**Mr. McCormick:** Can I ask Mr. Arrascada for a little clarification? Is it the intent that the provisions in AB 236, such as in section 58 that amends the grand larceny monetary thresholds and that kind of stuff, that that we recommend he, that the Governor and the Pardons Board, etc. look at that or do we want to the intent to narrow it down to those sections of AB 236 that could potentially, responsibly let some folks out of prison?

**Mr. Arrascada:** I thought I was clear on that, but no, the latter part that you stated, using the provisions of AB 236 as they apply to P&P, geriatric release, I don't have all the provisions up here in front of me, but it would be those provisions.

**Chairman DeRicco:** In my opinion, we're getting back to this overly broad again. Where we were to a point of where we kind of had things that were more succinct and without, everybody knowing all the statutes contained within AB 236—I know there's arguments made all the time about things being overly broad. I can tell you I have an issue with that because then it's truly not you know, recommendations being made that are specific recommendations that I think that this Commission should make to the Pardons Board and to the Governor.

**Mr. Arrascada:** It's only overly broad if you don't trust the Chief Executive of our state, the Pardons Board, and the Director of Prisons.

**Chair Hardesty:** Let's take a vote on just the amendment.

THE AMENDMENT FAILED: SEVEN YAYS; TWELVE NAYS

**Chair Hardesty:** All right. We'll call the original motion and take a vote.

MOTION TO RECOMMEND TO THE GOVERNOR AND THE BOARD OF PARDONS TO CONSIDER THE EARLY IMPLEMENTATION OF THE FRAMEWORK FOR GERIATRIC RELEASE AS PROVIDED IN NRS 213.12155.

MOTION PASSED UNANIMOUSLY.

[THE NEVADA SENTENCING COMMISSION TOOK A BRIEF RECESS]

## **8. Presentation Concerning Responses to COVID-19 Crisis at the Clark County Detention Center**

**Chair Hardesty:** Item 8 on the agenda is a presentation by Director Callaway, regarding the CCDC. There's been a lot of conversation about that subject and some issues surfaced following our last meeting regarding CCDC. I wanted to afford Director Callaway an opportunity to comment on that and give a brief overview of where the Sheriff and the Chief in the 8th Judicial District are with respect to

that detention facility. Thank you, Chuck, for being available to do this presentation.

**Vice Chair Callaway:** Thank you Justice Hardesty, for the opportunity. I'm going to try to be as quick as possible because I know it's been a long day. What I want to say first is, my brief presentation is divided into three parts. First, I'm going to just briefly talk about things that we've done on the front end since late February, beginning of March through the present to mitigate COVID-19 in our facility at CCDC. And then I'm going to talk very briefly about the order that the Sheriff requested and what that resulted in. And then finally, I will give you the status as of today, as of about two hours ago, numbers that I have, regarding the situation in the jail.

A couple of things I want to put out there before I get going is, number one, it's important to understand that when you're dealing with a facility the size of the Clark County Detention Center, just like NDOC with their facilities, things move very rapidly and there's changes that are occurring by the minute.

In the last meeting that we had on April 13<sup>th</sup>, I believe it was, I received a daily rep report that has the current status of what's occurring in the jail and the information that I had on that report at the time turned out to be balding and changing and about an hour after the committee ended, there was new information that was released in the press release that we had a case in the jail. Then, there were some questions that came up about possible previous cases of inmates in the jail. So, it's important to understand that the data that I give you today is based on the report that I received today. If I give you a certain number and we walk out of here and the news says something different that we just released, then it's because the numbers are changing as we speak.

With that being understood, I want to say something really quick about transparency in regard to that. We've been putting out press releases regarding COVID-19 at Metro since late February and as of yesterday available on our website there are over 21 press releases that Las Vegas Metropolitan Police Department (LVMPD) have put out regarding COVID-19 situation and our agency, including the jail.

In addition, the Sheriff participated in a press conference back on March 25<sup>th</sup> and during that press conference, he told the public that we had an inmate in the jail that had been released that was symptomatic and had subsequently tested positive for a strain of COVID, but it was our understanding that the COVID strain he tested positive for was not COVID-19.

It's also important to understand as we look at the totality of this discussion that during a pandemic, crime does not stop. We have some folks in our facilities that are, to be quite frank with you, violent people. People that are committing sexual assault, people that are committing murder, killing family members, people that are committing robbery and yes, although our overall crime numbers are down, overall, we have noticed that in March this year compared to March of last year, we have seen an uptick in certain categories such as aggravated assault, potentially domestic violence. We're still looking at all the facts and seeing if this is directly related to the COVID-19 pandemic and people being quarantined in their homes or if that is unrelated and just coincidence. My hunch is there's a connection there.

And again, as I said last meeting, it's our responsibility to adequately balance both public safety and health safety concerns. And the ultimate goal for Metro and our ultimate concern is obviously, the safety of the community, the safety of our staff, the safety of inmates in our facility.

So, with that being said, in late February we recognized in the jail that things were happening around the world and that there was a potential spread of this COVID-19 virus. We implemented in late February our infectious disease protocol in CCDC. Then on March 13<sup>th</sup>, LVMPD, our agency as a whole, set up our Emergency Operations Center which we call the EOC, which puts out a daily sit rep

report on the current status not only in the state in Clark County, but also for Metro, LVMPD. As part of that, we work very closely through the EOC with all community stakeholders of the health district, the county, the city and various other entities fire, paramedics, etc.

We also initiated early in March reaching out to other jails across the country to discuss best practices to see what they were doing to keep their inmates safe and to mitigate COVID-19. We had also participated in several webinars to learn about mitigating factors and how we can prevent the spread.

Our officers in the field, early on in March, were advised, if at all possible, to not make misdemeanor arrests or a bench warrant arrests, obviously with the exception of misdemeanor crimes that are mandatory arrests, such as DUI and domestic violence. That is still in play, obviously. Over the last couple years, we have been making efforts to get more people out on house arrest, to participate in various programs that help reduce recidivism and get people out of the jail. And just before COVID-19 even happened, over the last couple of years, we have on average reduced our jail population by around 700 inmates on average.

If an officer does make an arrest in the field for a misdemeanor crime, that has to be approved by a supervisor. When I checked the report today, there were no bookings for misdemeanor—or, I take that back. We had two misdemeanors bookings approved. I don't know the nature of those bookings, but I'm assuming that they are either domestic violence-related or DUI.

As I said, we've been making an effort to get as many people out on house arrest as we can. We currently have 935 inmates on electronic monitoring, house-arrest. The caps that were able to meet for that is 950 and we'd like to meet that and get 950 folks out. So, we're working on that. Obviously, there are issues with the vendor and the amount of ankle bracelets we have and working with the courts to work those issues out. But it's something that we're working on to try to reach that 950.

We have a strict medical screening in place for all inmates at the time of booking. When an officer arrives at the facility, they meet with a nurse and a health care provider from our vendor before they ever enter the jail. The inmate is asked a series of questions regarding how they feel, where they traveled and also a physical screening is done of their temperature and also to see if they have any other possible symptoms before they're ever allowed into the facility.

Once they're allowed into the facility, they are placed in a monitoring module for up to 72-hours to look at their condition, recheck their temperature to see if there's any symptoms they're exhibiting before they would be allowed into the general population. Everyone entering the Clark County Detention Center must wear either a surgical mask or an N95 mask. And we have 24/7 cleaning, advanced cleaning protocol of the entire jail including the entries, the sally ports, the general booking area, the cells, the hallways, everything. We've ramped up our cleaning.

For the cleaning, I know the question came up I believe with Director Daniels. We have a vendor that does the advanced cleaning or in-depth cleaning. We have a vendor that focuses specifically on areas where we might have had symptoms of COVID-19 or confirmed COVID-19 case, but we also have inmates that participate in in work programs that do some cleaning and they're also responsible for doing cleaning to a degree, personal hygiene cleaning and wiping down things, washing hands, that sort of thing, within their own area, their own modules.

So, we had also adapted social distancing guidelines for staff and inmates and we've rotated our schedule so that there are less people out of their modules at any given time for either food or using the phones or general exercise. The exercise equipment not available now. It's been blocked off because of concerns over the virus, but inmates are allowed to get out, they're allowed to walk, jog in

place, whatever, in the areas, but they have to maintain—every effort is used to maintain social distancing, just like Director Daniels said, sometimes the inmates are cognizant of it and they're watching it themselves and sometimes people mingle and we have to remind them and separate them.

Education was provided to all inmates and staff in three formats. We posted flyers all through CCDC with the CDC recommendations. We advised them of the symptoms, we advised them of the protocol for prevention and we also had a verbal consultation with inmates about the virus and what to look for, what to let us know, if they were experiencing symptoms. And then finally, there was a video that was done by command staff in the jail that was put out for both staff and inmates to view.

We've issued PPE equipment to all staff and all inmates. Inmates are provided a mask that they receive and when they get their linen changed, they receive a new mask. Currently, from the report I got yesterday, we have a least a 30-day supply of PPE equipment on hand and we're hoping to get more supplies of that. Inmates have also been provided soap. We have not supplied them with hand sanitizer for the very same reason that the Director said that they were having a concern within the prison, folks drinking it and using it for purposes other than sanitization. So, they are issued a bar of soap. They have access to running water and other hygiene tools, but not hand sanitizer at this time. We've also increased spacing between the bunks and between the phones and also restrooms so that when inmates are using those facilities such as the phone or the restrooms, there's spacing between them.

We have quarantine of inmates. Currently, there's 137 inmates that are on quarantine, that have no symptoms, but they're being quarantined based on their travel. That is based on high risk areas where they might have traveled if they came in from another country, if they were in New York City, for example, or areas where the virus has had a heavy toll, so based on their travel, they will be quarantined for up to 14-days to make sure they're not exhibiting symptoms and then they'll be returned to the general population. I think a big chunk of those 137 are about to be released back into general population.

Also, we have two inmates as of the numbers I got earlier, we have two inmates that are in quarantine based on symptoms. One of them, I believe they're awaiting tests on. I was told that he tested positive for pneumonia and they believe that's what he has, but they're doing the COVID-19 test in addition to the pneumonia test just to verify and make sure. So, they're waiting for the tests to come back for that. And I'll get into specific numbers in a minute of what we currently have in the jail.

We put in mandatory temperature checks for staff and inmates. We have three thermal imaging and infrared temperature readers in use in the facility. When staff comes in, their temperatures are checked. If they're above the temperature level, we have a protocol set up through our health and safety section where they can be retested if need be, they can be sent home, depending on the circumstances. In some cases, if they need to be tested, that can be arranged, and we have a number of employees that are that are in quarantine based on possible symptoms. And again, in a minute, when I get to our daily or what I have today for stats, I'll tell you the current stats as far as inmates that are positive.

We have protocol in place for staff who are showing symptoms which is coordinated through our health and safety section. We have 11 negative airflow pressure cells, nine of them are currently occupied, but only three of those cells are occupied with people that have symptoms that are similar to COVID-19. The other cells I believe are other possible infectious diseases that we see people come in with like, for example, like tuberculosis.

So, on—going into the release order. On April 16<sup>th</sup>, three days after our last meeting, the Sheriff petitioned the court for an order to release certain offenders for the purpose of disease management and the order was subsequently approved by Judge Bell. It's important to note, like I said earlier, that

over the past few years, we've been working aggressively to reduce jail population overall anyway. So, because we've reduced our population by over 700 inmates on average, that gives us a lot more flexibility with social distancing, but we recognize that since we had some positive cases and we had some cases with staff that we needed to further reduce population of certain offenders in order to allow us to more safely exercise social distancing and CDC protocol. It also allows us to conserve PPE equipment.

So the categories in the order that were released; inmates that were being held on probation and parole, technical violations, and Chief Carpenter can correct me if I'm wrong, but I believe our numbers were was about 83, 84 people that fell into that category. We had inmates who were high risk based on CDC factors, which included being over 65 years of age, having identified pre-existing health conditions and obviously folks that had not been arrested for a crime of violence or crime of DUI.

And then we also asked for inmates that had served 75% or more of their sentence and then we would work backwards. So, inmates that had served the most time, an inmate who had served 80% of their time would be released sooner than an inmate who had served 75% of their time, with the hope of getting as many of those folks out as we could. And then, obviously, there's a degree of crossover between categories. You may have someone who's spent 75% of their time and they are a non-violent offender and they're over 65, so they fall into several of those categories. The order is in effect for 30 days.

So, with that, I will go into today, the numbers I have for the jail as of today. Again, if we leave this meeting, I've been in here all day locked in my office, so, if we leave the meeting and the news says something, you know, that is different than what I'm saying here, it's the nature of the game. So, I apologize for that if it happens.

Right now, you know, maximum capacity in the jail is 4,189 inmates. Based on the numbers that I have from earlier today; we have a population right now of 2,484 inmates. That's about close to a 40% vacancy rate. We have 177 inmates that have been released as a result of the order. We have the 935 inmates that are on electronic monitoring. We have seven inmates, since the beginning of this, that have tested positive for COVID-19. All of them have been released from our facility except for one. We have one inmate that is in custody with COVID 19. He's in quarantine and his crime is a crime of violence. I believe it's an attempted murder crime. So obviously, he will not be released.

The others that have been released, we coordinate with the hospitals and the Department of Health and Human Services so that—or the Health Department so that there's continuity of care. So, when they're released, they're not just turned out onto the street with COVID-19. There's a plan to get them into quarantine or get them into a hospital if need be. And there's some care after they're released.

And then, we are waiting on one test of an inmate, that again, I talked about earlier that is exhibiting flu-like symptoms. The initial test was possibly pneumonia or flu, but we're waiting for a COVID-19 test. We have nine staff members who have tested positive for COVID-19. Those staff members are all on quarantine. We have four members of our CO Academy that was in progress we had 35 people in an Academy for Corrections. Four corrections officers tested positive, as of the information again, that I had this morning. There are some other tests pending of other Academy recruits. The Academy has been suspended, obviously, for safety reasons. And currently for the tests that we're conducting through our vendor, with cooperation through the Health District, we're seeing right now about a two to three-day turnaround for test results when they're done at CCDC.

So, with that, I would be happy to answer any questions you might have that I can answer.

**Assemblywoman Nguyen:** What are you guys doing to protect your officers? I know that there have been cases where someone had COVID-19. They were released to the street and then they were later arrested again because either, you know, a recidivism or committing a new crime or whatever it is. And then, the officers that go out to arrest that person are not aware that that person had tested positive for COVID-19 and now all of a sudden, those officers have exposed themselves. Have you been able to do anything where you include like kind of the notation when they're released if they have or they have been positive?

**Vice Chair Callaway:** When we do receive information of a confirmed positive case, usually through our partners in the Health District, we were able to flag a residence, for example, where that positive case was. So, if an officer is sent on a call to that address, they are aware that there was a positive case there. And then obviously, we've done a lot of education with our officers.

The fact of the matter is, during a pandemic, our cops have to be out there, and they have to be responding to calls for service. Like I said, crime doesn't stop, domestic violence doesn't stop. We don't have the luxury in law enforcement of social distancing, unfortunately. So, our officers have been educated. We've done a number of videos and put out a lot of stuff. Our whole Health and Safety section is working tirelessly to provide any help to officers who think they might have been exposed, where we have the ability now to get officers in for rapid testing and to get results back in a matter of a day or two.

I heard yesterday and I don't know the status of this, but they were looking at potentially allowing for officers to be tested even if they didn't have symptoms. So that they would you know, feel comfortable going home to their families and knowing that they're not asymptomatic. We have obviously PPE equipment that is out there in the cars. Officers are encouraged to put that on.

To give you an example. The other day I was out with the Sheriff and there was a number of homeless folks over there near the courtyard, a large amount; I'd say probably 60-70 people over there. I think they were getting in line to try to get food that was being handed out over there. And we had several officers over there keeping the peace and they all were in full PPE equipment. And again, unfortunately, they don't have the luxury to say I'm not going to go or I'm not going to handle this.

We have a number of staff that are in quarantine. I have the numbers here somewhere in the report I just have to dig them up for the total numbers for the whole agency. But if there's a doubt, we're encouraging—well in fact, we're mandating. We're not encouraging. If we believe someone's exposed, they're going into quarantine and we're going to monitor and make sure that they have not been exposed before they come back into the workforce.

**Assemblywoman Nguyen:** I know for a while that you weren't putting it in SCOPE. So, you are now. Officers when they're aware that someone or a residence or a person has tested positive, so at least the officers know when they're responding to a call that they should take extra precautions?

**Vice Chair Callaway:** Yeah, I shouldn't say SCOPE. I don't think it's being put in SCOPE, but I believe our dispatchers have that information. So, if a call is generated at one of those locations, the dispatcher will advise the officer that that's one of the locations based on the information we've received through the Health District.

**Assemblywoman Nguyen:** I also have a question about the interaction, I know that I had received calls from your civilian employees that work at the Clark County Detention Center, that are in intake and they are in direct communication and weren't at one point being provided PPEs and there was no social distancing practices in place. Is Metro working with the civilian employees that are also working

within those detention centers with that as well?

**Vice Chair Callaway:** Like I stated, we put out three types of education to all of our employee in CCDC. Including civilian employees. It was in written form. It was posted. It was done in a video and it was also done verbally by supervisors that went around and talked to their people. In addition, on our website, we have put out protocols on LVMPD.com for our officers to review. We also PPE equipment, from what I was told yesterday, all of our staff and inmates in CCDC have access to PPE equipment. So, I'm not going to sit here and tell you that early on when this thing first happened that maybe somebody was in an area where social distancing was not possible at that time, but I believe that we have taken every step at this point to ensure that that's happening.

**Mr. Story:** Chuck, you had mentioned crime rates, you said that some were going up. I've seen some reports that say that overall crime has gone down since the stay at home orders were initiated. Could you clarify that for us, please?

**Vice Chair Callaway:** Sure. So, in respect that overall, compared to last year, year-to-date, our crime is down with the exception of aggravated assaults. I believe we're about 200 higher this year with aggravated assaults than we were last year. However, we have had some specific area commands that have, during the month of March, seen a higher number of aggravated assaults and some firearms related crimes compared to that same geographical area last year, during the same time period. If that answers your question, but yes, according to the year-to-date numbers, they are still below in most regard or even to what they were last year, with the exception of aggravated assault.

**Mr. Arrascada:** What's the recidivist rate of those that have been released from the jail under the depopulation order?

**Vice Chair Callaway:** That's a great question. Because this order went into effect April 16<sup>th</sup>, I am not sure if anyone that was released on this order is back in, but that is a fantastic question and I will reach out after this meeting and find out if we're tracking that because if we're not, we definitely should be.

**Mr. Arrascada:** Also, the homelessness rate and the unemployment rate, please?

**Vice Chair Callaway:** Okay, I'll find those out as well. Those would be screening questions when the inmates are screened when they come in. I'll see if, again, if we're collecting that data in regard to what's occurring during this pandemic and I'll provide that back to the Commission.

**Chair Hardesty:** Seeing no more questions for Vice Chair Calloway I will be move on to the next agenda item.

## **9. Update on Plan of Implementation of Assembly Bill No. 236 (2019)**

**Chair Hardesty:** Let's turn to Item 9 on the agenda and get a quick update from Ms. Strait on the implementation of AB 236 plan.

**Ms. Strait:** I know it's been a long day, so I'll try to be quick. You received another handout from us, it should be in your packet. It's an updated implementation plan for AB 236. This should look familiar; we distributed an older version of this at the previous meeting in February. This has since been updated to reflect the progress Nevada has made towards implementation of AB 236.

One thing I want to note is that this is just the work that we are aware of. We can offer technical

assistance to any agency that is involved in implementing AB 236. Some agencies have requested more assistance and others, so it's possible that there may be more going on than we are aware of.

As we are getting closer to July 1—I think we talked about in February that one important takeaway from the research on implementation is that the implementation of anything doesn't happen overnight; rather it happens in stages. Lots of work has happened so far across many different agencies in Nevada to implement AB 236. As we approach the effective date, there are still things to do, but that is to be expected.

It's also to be expected that sometimes things happen that throw a wrench in implementation and agencies have been dealing with that right now as they juggle implementing AB 236 with responding to COVID-19. This may alter, delay or maybe even expedite some activities. So, it's important to analyze what needs to be done, listen to what needs to be done but I think it's also important to recognize all the work that has been done so far.

I'm not going to go through the entire plan with you right now, but I wanted to highlight some important points. First, with regards to the Department of Corrections. NDOC continued to work hard over the past few months to move forward with many of the initiatives they had already begun and prior to the passage of AB 236. They've been successful in training all existing staff in core correctional practices and we're working with them on a plan to continue to train staff in the skills.

NDOC has also been working closely with various community partners to initiate training events in areas such as risk and needs assessment, case planning, trauma-informed care and responding to behavioral health needs. Additionally, NDOC has rolled out the NRAS and is in the process of planning for the first validation study of the tool, which will be completed through the University of Cincinnati.

Next, the Parole Board has revised their internal handbook to fit with AB 236, which is a pretty big undertaking. And in addition, they've been working closely with NDOC and P&P and other partners to ensure that all are on the same page. This collaboration is an essential part in effective implementation for everybody and I'm going to speak a bit more about that in a minute.

But first, I also wanted to highlight the Division of Parole and Probation. They created working groups to develop policies, forms, and training for each of the areas of AB 236 that impact the Division the most. The working groups were made up of staff from different regions and each group has now created new policies and forms that fit with AB 236. And those are, I believe, under the review by senior leadership currently. P&P also has a training group that was in charge of ensuring officers are trained on those new policies, as well as the topics required that AB 236 that officers be trained in.

Originally the plan was that the training team would combine educational materials from each working group and roll those out during in-person sessions, training sessions, this spring and summer, but obviously COVID-19 has complicated those plans. As the training team cannot gather people together for these trainings now, they're developing an alternative plan to train officers involving using a series of webinars. The training team is working on the logistics of that plan now and we're working with them to look for ways to make sure webinars are interactive and responsive to different learning styles. So, it's a challenge, but one the training team has been working really hard on.

Finally, as I alluded to earlier, I think something that is important, but that may not be immediately evident from looking at this plan is how much interagency collaboration has been taking place. I think open communication between implementing agencies is super important. It helps us all be open to new ideas and adapt together when roadblocks like COVID-19 or others come up. However, collaboration can also be really hard. Sometimes agencies aren't used to working together or could even have a

problem from past negative experiences. So, this is something we often see states struggle with.

So, I'm really excited that that hasn't been the case in Nevada. In particular many sections at AB 236 impact NDOC, P&P and the Parole Board and require them to get on the same page. We've really seen NDOC, P&P and the Parole Board embrace the spirit and have held several joint meetings with teams in both the north and the south to discuss the work that each agency is doing on implementation and identifying how the changes each of making would impact the others and talked through ways to collaborate and help each other.

I think this spirit is especially important to continue throughout the many stages of implementation. So, even as we continue on both the day-to-day collaboration between agencies and also the more [inaudible] of collaboration like the Sentencing Commission. As implementation continues, other roadblocks or interesting issues will likely arrive and so having pre-arranged avenues of communication make it easier to continue to check in on those and to work out solutions together.

That's what I really wanted to highlight from this. You all have the full plan, so feel free to either now or later ask questions if you have them.

**Chair Hardesty:** Thank you very much. Are there any questions for Ms. Strait on her update on the implementation plans?

**Dr. Salisbury:** Can you clarify something for me just in terms of the alternatives to incarceration a provision of AB 236? So, is that firm and done or is there going to be additional exploration about what other alternatives might be suggested?

**Ms. Strait:** I'm not sure I understand your question. Can you clarify?

**Dr. Salisbury:** Yeah, so the alternative to incarceration sort of discussion on—what page am I on, well, I'm on 150 of the complete PDF that I've got here. I recall there being discussion about expanding like specialty courts and alternatives to incarceration, can you just clarify for me if that is finalized? If this body will be discussing additional, potential alternatives to incarceration or is that set-in stone now because of AB 236?

**Ms. Strait:** So, you're asking will there be further clarification or further expansion of what was passed in AB 236?

**Dr. Salisbury:** Correct. I didn't know if there was going to be any more additional discussion about other alternatives. I realized that there are things that have been passed, right, obviously because of AB 236. So, I just didn't know if there was additional discussion on that, or if that's done.

**Ms. Strait:** That's a good question. Not that I'm aware of, but that doesn't mean that they're haven't been others or that there can't be others.

**Dr. Salisbury:** The reason I bring it up is because, I know, I'm aware of some other alternatives to incarceration, specifically around sentencing, parenting sentencing alternatives that have shown to be effective in Washington and Oregon state but again, just wasn't quite honestly sure if and when those suggestions could be made.

**Assemblywoman Nguyen:** Can I just step in for a second, Justice Hardesty?

**Chair Hardesty:** Yes.

**Assemblywoman Nguyen:** I know that that's something that obviously we can address here at the Sentencing Commission, but I know in the ACAJ, that's one of the topics that we're looking at exploring is the use and expansion or inclusion of more of these alternative programs such as specialty courts. I know I'm doing it as a part of my own personal BDRs, too, so there are opportunities. I can reach out to Emily, and we can talk more about it offline.

**Dr. Salisbury:** Thank you so much.

**Chair Hardesty:** I don't think anything's off the table for the Sentencing Commission to agendaize, but I worry about prioritizing what we have to do in this Commission alone. As I had expressed early on when we convened, I think our major goal is to take the steps that we were required to take under AB 236, get the reports as best as we can, get those done.

As you heard from the Director, our policy BDR unless extended, expires May 1<sup>st</sup>. So, that would require a full vetting of alternative legislation for the commission to recommend and I just don't see that that's practical within the timeframe we have. If the Advisory Commission has some space on their agenda to look at additional alternatives, great, but I think our plate is pretty full in respect to the responsibilities that we have this calendar year.

**Dr. Salisbury:** That makes sense; I understand that, Chair Hardesty. I'll get in touch with Assemblywoman Nguyen. Thank you.

**Chair Hardesty:** I wanted to also mention, and you probably saw it in your materials, the circulation of a practitioner guide to AB 236. I think it's really well done, Barbara because of the interest of time, I'm going to move on, other than noting it. But in particular, I wanted to call it to the attention to all of the lawyers on the Commission because I think that it is a useful tool in working with your offices in trying to facilitate their understanding and application and use of the changes in AB 236.

In particular, Mr. Hicks, if you haven't already done so, you probably have, but I would ask if you could have Ms. Noble review it and in the context of any modifications to the request that your office has made, look at the work and this practitioner guide to see whether it gives you a head start, let's put it that way, on some of the activities that you had in mind with respect to the budget request you made for the grant.

**Mr. Hicks:** Will do.

## 10. Discussion of Potential Topics for Future Meetings

**Chair Hardesty:** All right. There was a discussion about future topics, I think our agenda is pretty full but I will just say, if people have an interest in pursuing topics or particular topics, if you could just send those to the Executive Director and I'll review them with her as we build our budgets going forward. Our next meeting is July 29<sup>th</sup>.

## 11. Public Comment

**Chair Hardesty:** I'd like, now, to turn to the second phase of public comment. In that regard, I believe Director Gonzalez has sent to you three emails. The first conveyed public comments numbered 17

through 41 and the second conveyed public comment 42 to 47. And the third conveyed public comment 48 through 52. Is that all of the public comment we have?

**Director Gonzalez:** Correct.

**Chair Hardesty:** All right, so if you would, as we did this morning, Director, flash on the screen who submitted the public comment 17 through 41 and leave that up there for a little bit while the Commissioners are looking at that public comment and then we'll switch over to the public comment that's provided for 42 through 47 and then 48 through 52. So, Commissioners, if you would take a look at the three emails and the public comments submitted and then in a few minutes I'll check back with you to see if people need additional time to study the public comment that's been provided.

[The members of the Commission silently read the public comment that was submitted up until the point that the second period of public comment was opened. Public Comment was submitted by email.]

## **12. Adjournment**

**Chair Hardesty:** I thank you all for your hard work today and the deliberations that we've participated in. Be safe and the meeting will stand adjourned. Thank you all for your time.