

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**

625 Fairview Drive, Suite 121 | Carson City, NV 89701-5430
Phone: (775) 684-7390 <http://sentencing.nv.gov>

NEVADA SENTENCING COMMISSION

MINUTES-DRAFT

Date and Time: May 21, 2021, 9 A.M.

Location: VIRTUAL

MEMBERS PRESENT

John Arrascada
Christine Jones Brady
Chuck Callaway – Vice Chair
Director Elisa Cafferata
Director Charles Daniels
Chairman Christopher DeRicco
Judge Scott Freeman
Chief Justice James Hardesty – Chair
Chris Hicks
Darin Imlay
Dr. Jennifer Lanterman
Chief Thomas Lawson
Keith Logan
Russell Marsh
John McCormick
Kimberly Mull
Dr. Elizabeth Neighbors

MEMBERS EXCUSED

Jon Ponder
Judge Michael Villani
Assemblyman John Hambrick
Senator Nicole Cannizzaro
Senator Keith Pickard
Assemblywoman Rochelle Nguyen

STAFF

Executive Director Victoria Gonzalez
Laura Arnold, Staff Attorney, NDSP
Rhonda Buckley, Administrative Assistant,
NDSP
Monica Chiazza, Administrative Assistant,
NDSP

1. Call to Order / Roll Call

Chair James Hardesty: Meeting called to order at 9:02 a.m. Welcome everybody to the Nevada Sentencing Commission meeting today, May 21st, 2021. I apologize to everyone in advance for holding a meeting in the final days of the legislative session. But as I had explained in the last meeting, we're required to hold these meetings consistent with statute and the timing isn't always our choice. But we'll be cognizant of the demands that I know exist on various people who may have to attend hearings. So, if that's the case I would just ask if you would let us know so the staff can mark your absence for a brief period and hopefully you'll be able to return.

In addition to having Victoria and her staff here today, present, it's really an honor to have the Vice-Chair, Chuck Callaway, present. It's the first time, I think, Chuck and I have seen each other in person in over a year. I'm hoping we'll be able to have an in-person meeting of the Commission maybe later this year. And you'll get the same treatment he got. I gave him a hug. So, I'm looking forward to giving all of you a hug, too. Let's get started and we'll move through our agenda. If you would, Victoria, please call the roll.

(ROLL CALL IS CONDUCTED BY DIRECTOR GONZALEZ; QUORUM IS MET.)

2. Public Comment:

Chair Hardesty: The first order of business is to open the first period of Public Comment. Consistent with the practices we've been operating under for the past year, there are two periods of public comment, one at the beginning of the meeting and one at the end. Members of the public have two options for submitting public comment. First members may do so in writing by emailing the Department at SentencingPolicy@ndsp.nv.gov. Public comment received in writing will be provided to the Commission and included by reference in the meeting.

My understanding, Ms. Gonzalez, is there were no written comments prior to today's meeting.

Director Gonzalez: There were. We have several submitted and they've been posted to the website and included with the meeting materials for the members of the Commission.

Chair Hardesty: I did not see mine, so I'll look at those. Members of the public who wish to testify by phone, due to time constraints, however, we're limited to two minutes. Any member of the public who exceeds that time frame, we also encourage you to submit additional comments in writing to the Department of Sentencing Policy.

Ms. Buckley, do you want to proceed with inviting members of the public comment to participate?

Ms. Buckley: Thank you, Chair Hardesty. Members of the public who would like to testify may do so by phone, press star nine to raise your hand. When it is your turn to speak, please slowly state and spell your first and last name.

Chair Hardesty, at this time we do not have anybody in the waiting room or with a raised hand to make public comment.

Chair Hardesty: Okay, thank you Ms. Buckley. We'll proceed then with item 3 on the agenda.

3. Approval of February 19, 2021 Minutes

Chair Hardesty: Agenda Item three, the minutes of the meeting of February 19th. Are there any edits, comments or corrections to the draft minutes?

Holly Welborn: Justice Hardesty, I plan to abstain from this vote as I was not present.

KEITH LOGAN MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 19, 2021 MEETING.

JOHN ARRASCADA SECONDED THE MOTION.

HOLLY WELBORN ABSTAINED FROM THE VOTE, AS DID VICE-CHAIR CALLAWAY.

MOTION PASSED.

4. Report from the Executive Director of the Nevada Department of Sentencing Policy

Chair Hardesty: I was kidding Ms. Gonzalez, our Executive Director, about the length of her report. But it is substantive, and it's important for us to catch up. She and her staff have been extraordinarily busy, so I'll extend to Ms. Gonzalez the opportunity to proceed with her report.

Director Gonzalez: Thank you Chair. I have prepared a presentation as the Chair mentioned, for my report today. It has also been provided in your meeting materials if you would like to follow along. As I have previously done for my reports, I have organized my summary of the Department's activities by the core functions of the Department.

On slide 1, I have some highlights regarding the Administrative core function and the Budget core function. As you can see, our infrastructure, as far as we are concerned, is fully established. We are able to conduct day-to-day activities of an agency and we are now fully staffed. Importantly, Monica Chiazza joined our team recently and as you can see from the work we have done, she has been able to jump right in and work with us and help us move things along.

To accomplish our statutory mandates, I have identified key areas or subject matters within the Department and then assigned staff to each of these areas. As many of you know within state agencies staff have formal titles. But based on the assigned areas of expertise I have identified within our Department I have given them what I call "real titles" that represent what they contribute to the Department. Laura Arnold is our Research Specialist; Rhonda Buckley is our Administrative Specialist, and Monica Chiazza is our Data Specialist.

In our Budget core function this is an update on our budget. For fiscal year 2021, we were appropriated for \$438,988 for the fiscal year and this is after the required reductions resulting from the Covid-19 pandemic were taken. We are currently on track to revert some of these funds in our travel and salary categories and these reversions are due totally to impacts from restrictions from the Covid-19 pandemic which limited our ability to travel and the normal salary savings that occur when we are in between hiring when a vacancy occurs in our Department.

Here is a summary of what we have done in our Commission core function. Our activities in this core function are focused on organizing, executing and closing Commission meetings. This includes preparing the agenda, meeting materials and transcribing minutes. I have an important update about our membership as we can see since our last meeting of the Commission, Holly Welborn from the ACLU has been appointed to the Commission. So welcome, Ms. Welborn, and I know that the Chair and the rest of us are very happy to have you here. Additionally, the Commission currently has one legislative vacancy and this vacancy will most likely remain vacant until the end of the current meeting cycle.

The current meeting cycle of the Commission will be ending on July 31st, 2021. The two-year appointments of the Commission members will align with the meeting cycle. Which means the appointments of our current members will end on July 31st, 2021. This will include those who were appointed to fill the vacancy of a member that was appointed back in 2019. Starting at the end of June, beginning of July, staff will begin soliciting appointments for the next meeting cycle. We'll be reaching out to the appointing authorities. For those of you who may be interested in serving another appointment, could keep in contact with your appointing authority regarding appointments for the next cycle, which will begin on August 1st, 2021.

Another update I wanted to let the Commission to know about was in regards to the Open Meeting Law. On June 1, 2021, the requirements of the Open Meeting Law were suspended in response to the Covid-19 pandemic. In response to the Covid-19 pandemic, the Governor suspended several requirements of the Open Meeting Law. One of the requirements that was suspended was the requirement that a public body have a physical location for a meeting, where members of the public are permitted to attend and testify. The suspension of this requirement allowed for public bodies to hold meetings in a virtual format, like this one. Starting June 1st, the suspension of this requirement expires. Assembly Bill No. 253 of this session, codifies several changes to the Open Meeting Law that were in effect during the pandemic, including the change to the physical location requirement.

The bill provides that a public body provide a physical location or means to attend by remote technology system. The effective date of AB 253 is passage and approval. This means when AB 253 is passed and signed by the Governor, the Commission will still be able to hold meetings via ZOOM.

Next slide is a summary and highlights of what's happening in the AB 236 core function. We have some exciting updates about the Nevada Local Justice Reinvestment Coordinating Council. If you go to our website, you can see a list of the most updated appointments to the Council. At this point, we only need four more appointments from three counties. We are aware an additional appointment was made yesterday and we're going to confirm that as well and update our website when that is confirmed.

Based on the plan that has been proposed to this Commission, the Chair of the Council will be appointed at the September meeting of the Sentencing Commission by the Chair. Our plan for the Coordinating Council is to hold the first meeting in September. I first want to thank Laura from our staff, who took the lead on communicating with the counties to solicit these appointments. I want to thank all the counties for working with us and getting their appointments to us in a timely manner. The appointments are due to us by July 1st, and as you can tell we are right on track to get those. Among

other things the Council is tasked with informing the Commission about the impact of AB 236 at the local level. Along with recommendations from the Chair and this Commission, I recommend the first meeting of the Council include initial discussions of this impact of AB 236 at the local level and maybe a data inventory of each county to learn what kinds of criminal justice data they collect and report.

As you note next on our slide, we have begun a project to identify practical and physical impacts of implementing the technical violations, graduated sanctions and temporary revocations from the provisions of AB 236. The preliminary information we have is specific to parole. I want to let this Commission know that this topic has come up in our meeting with agencies and stakeholders. Additionally, discussions about these provisions came up at the previous meeting of the Commission back in February.

The Sentencing Commission is tasked with evaluating outcomes resulting from the enactment of AB 236 and the provisions related to the technical violations, graduated sanctions and temporary revocations, is another area where we can gather information and data and assist the Commission in evaluating these outcomes and enacting these provisions and policies. We look forward to presenting our findings, our data, at future meetings of the Sentencing Commission and we will include information as it relates to probation as well.

Next, we are refining our methodologies in assisting the Commission in identifying savings and reinvestment as it relates to the prison population.

Previously, the Commission discussed the methodology for identifying savings. Director Daniels asked us to work with his staff on getting more information at the institutional level to contextualize these savings, which we have been working on since. You can see we are now collecting data to track admissions and releases on a regular basis, and we are also collecting data by institution to start gathering information that will be relevant and helpful, to providing that context when analyzing savings.

Related to that is the reinvestment piece, that is important to AB 236. The Commission is tasked with making recommendations for reinvestment to better inform any recommendations that are developed by the Commission, I thought it might be helpful for the Commission to be aware of certain programs that have been funded and that might be considered reinvestment.

For example, the Governor's recommended budget highlighted funding for the Going Home Prepared Program. My pedestrian understanding of the program is that it assists certain parolees who need assistance with housing for release. But I will gather more information about this. Additionally, Assembly Bill 358, is related to assisting inmates in completing applications for Medicaid. There was a fiscal note submitted by NDOC concerning the cost it would be to assist inmates in completing their Medicaid application so that they have proper treatment upon release.

It is possible this might be considered reinvestment as well, as AB 236 required NDOC to assist inmates in being prepared and applying for Medicaid as part of their release program. Even broader, any programs, agencies or treatment that might provide assistance or support for reentry, that receive funding during the legislative session, could be considered reinvestment. If this Commission would like

more information about this, we can provide a full report at a future meeting.

Next is our Reports and Data core functions. What we have here is what we've identified a goal for establishing a criminal justice data hub. We are working to assist the Commission in fulfilling mandates related to criminal justice data and we hope by building and establishing and adding data to this criminal justice data hub it will assist the Commission. We will take data that has been submitted to the Department and that is publicly available and start storing it within our Department. We hope that this data storage will evolve into a database and maybe even a dashboard that would be available on our website. Of course, this will be dependent on staffing and technological resources.

We will also identify key metrics, sources for those metrics and provide that information in the hub. The hub would also include information about where gaps of data have been identified. Any information that we have would be available on our website and we would have key findings and visualizations. Additionally, we hope to publish these in what we are now calling a data digest. The data digest, data storage and future database and dashboard, will assist the Commission for making recommendations and also provide important information to the public regarding the criminal justice data that is available in our state.

We've also been working on what we call a supplement to the AB 236 Report. We met with agencies and stakeholders, and we will discuss this in an agenda item later on in the meeting. Finally, related to this core function, our activities, is our collaboration with CJI related to the Covid-19 Project, which they will also be presenting on later in this meeting.

In the legislative core function, obviously we've been very busy. We have been tracking legislation relevant to the duties of the Department and the Commission. We then have organized and tracked bills into categories and provided regular updates to this Commission. The categories we have created at this point for organizing priority legislation, is programs and reentry, impact to prison population, criminal justice data, corrections costs, AB 236 and anything related to the administration of either our Department or the Commission.

In our legislative activities, I wanted to provide specific examples of what we have done. In tracking legislation, we've looked for opportunities to submit amendments that would ensure the Commission and the Department receives certain reports. These reports include criminal justice data that are relevant to the duties of the Commission and the Department. Examples of this are an amendment that was submitted for AB 125, which would ensure that the Department of Sentencing Policy receives the report of those who qualify for the credits that would be granted in that bill. Additionally, I submitted an amendment for SB 401, to ensure our Department received a report related to data that is collected for pre-trial release, which may help the Commission in additional recommendations it seeks to make.

Finally, in our legislative activities, is a significant project we've taken on related to the cost-savings analysis of AB 125 and AB 241. As you can see at one point during session, we were asked if we could identify any cost savings that might result from the enactment of AB 125. We took this project on and engaged and collaborated with all the agencies that would be impacted by the enactment of the legislation. I've included a visualization in the materials of the Commission, and placed on our website,

some of our findings, so far, and how we took on this analysis.

We looked at how many possible inmates would be available for parole, looked at the current grant rate, looked at impacts, then based on that grant rate, who then might be subject to supervision. In order to enact AB 125, the agencies submitted fiscal notes that represented the fiscal impact they would experience in order to enact the legislation. We evaluated the fiscal notes, the potential costs and the impacts and put together the visual that's been included in your materials, to project the possible outcomes of what could happen. Not only to the agencies, but fiscally for the agencies and to the state as it would result from this legislation.

Our biggest takeaway from this is that we're learning how to evaluate and analyze the cost and practical impacts of any legislation or any changes like this, to policies as they relate to the prison population. We're looking forward to improving our methodology. As we know this has been an ongoing project since the Commission started meeting and since AB 236 went into effect as one of the mandates is to evaluate those costs savings. We look forward to continuing to refining our methodology and we'll keep the Commission updated on our activities in this area.

In the Outreach core function, I want to provide an update on the information we have received from the public, as we continue to be a source for the public to share their interests and concerns as it relates to sentencing policy. Since our last meeting, here's a summary of the information we have received. I will note any requests received to be included as public comment, that number on the slide here and in the report says 17, it is actually 14. And as I mentioned those submissions were provided to the Commission with meeting materials and can be reviewed on our website.

The last thing I want to mention in the Outreach core function, was a trip we took to go meet with NDOC staff. We visited Ely State Prison and we visited Florence McClure. One of the things that's very important in our gathering information and context for the Commission, is understanding how our criminal justice system works. The staff at NDOC has been very welcome and opening and welcome, in letting us see the facilities so that we can truly understand this part of the criminal justice system. We would like to do the same with other stakeholders and agencies throughout the state, and we'll continue to reach out to those individuals.

If there's any member of this Commission who has a recommendation for either a visit we could do, a sit-along, or ride-along that would continue to help us have a full understanding of the criminal justice system, we welcome that, and look forward to those opportunities with meeting everybody throughout the state.

Next, I'm going to turn the presentation over to Laura, who will provide an update on some of our case law tracking.

Ms. Arnold: Thank you, Director Gonzalez. Good morning, Commission members. For the record, I'm Laura Arnold, staff attorney for the Nevada Department of Sentencing Policy.

At the beginning of 2021, the Department began tracking the advanced opinions issued by the Nevada

Court of Appeals and the Nevada Supreme Court for any case law that might be of interest or relevant to the work of the Commission, or otherwise assist the Commission in making recommendations in the future.

To date, there have been three cases published in 2021 that stand out.

The first case is *State v. Fourth Judicial District Court*, Advanced Opinion Number 4, published on February 25, 2021. This case concerns criminal charges, and in particular, the Supreme Court made a determination that a felon in possession of a firearm or firearms commits a single violation of NRS 202.360(1)(b) regardless of the number of firearms in the felon's possession.

The second case is *Sewall v. Eighth Judicial District Court*, Advanced Opinion Number 9, published on March 4, 2021. *Sewall* concerns pretrial release and concluded that the State's evidence of the defendant's first-degree murder was insufficient to defeat the defendant's right to reasonable bail under the Nevada Constitution because that evidence did not tend to demonstrate that the defendant committed the elements of first-degree murder.

Finally, the third case is *Hildt v. Eighth Judicial District Court*, Advanced Opinion Number 12, published on March 25, 2021. At issue in *Hildt* was retroactivity jurisprudence, specifically in reference to a jury trial in a qualifying misdemeanor case. The Nevada Supreme Court vacated the defendant's misdemeanor conviction for domestic battery based upon the retroactive application of *Andersen v. Eighth Judicial District Court*, 135 Nev. 321, 448 P.3d 1120 (2019). In *Andersen*, the Nevada Supreme Court determined that defendants charged with a misdemeanor domestic battery offense are entitled to a jury trial. The defendant in *Hildt* was entitled to the retroactive application of *Andersen* because *Andersen* announced a new constitutional rule of criminal procedure that was decided before the defendant's conviction in *Hildt* became final.

Director Gonzalez: Thank you, Laura. So, to conclude, these are the highlights after that lengthy report, which I appreciate being able to share and celebrate all our activities and accomplishments since our last meeting cycle and really, since the establishment of the Department. Again, things the Commission and public can look forward to, is our criminal justice data hub, which will be available on our website as we continue to update that and build that. We are looking forward to publishing what we are calling the data digests. We will provide a full legislative update at the September meeting of the Commission to give the Commission an update on the legislation that was actually passed, the possible impacts of that and highlight anything the Commission may want to investigate or get additional information on. And of course, we've the new meeting cycle coming up for the Commission, which will begin August 1st and we will be soliciting appointments for that soon.

With that, we are happy to answer any questions the Commission may have. And I'll note if you have questions, I've numbered the slides. A couple of them are out of order, I admit, just mention that if you have a question specific to that slide. And Chair, thank you.

Chair Hardesty: Thank you, Victoria. Thank you, Ms. Arnold for your reports. Are there any questions from Commission members for the Executive Director at this time?

Vice-Chair Callaway: I have a question on the slide regarding AB 125 cost savings. I don't have the data in front of me today, but I'd be happy to provide it to the Commission. We found that when we released certain offenders at CCDC because of the Covid pandemic and our depopulation, that a significant number of those folks who were released ended up reoffending and getting placed back in our custody. So, I'm curious if the cost savings that's being evaluated for those 725 offenders, that were granted parole, if it's also taking into account if any of them were reoffended and back in the system and how that affects the cost savings. Obviously, if they would have otherwise been in custody but were released early and then they're reoffending there may not be the whole cost savings that on the surface that would appear. That's the question.

Director Gonzalez: Thank you. If I understand, are you talking just to clarify the reoffending of those who would be released? Or the possible reoffending of those who are released and then come back?

Vice-Chair Callaway: I'm looking specifically at, if they were released early either due to AB 236 or AB 125, and then they reoffend and they're back in custody again, if we're looking at strictly the cost savings because they're not taking up a prison bed or a jail bed on the front end because they were released. But in fact, they're back in taking up the jail bed so they're really not, the cost savings we may be claiming there is, if that makes sense.

Director Gonzalez: It does. Thank you, very much for that question, Vice-Chair Callaway. That is one of the things that is incredibly complicated when it comes to trying to identify savings. There are practical impacts of what we're used to seeing in the criminal justice system. As much as we can here, we've tried to add those caveats. One thing I had noted here was that AB 125 applies credits specifically to certain B felons. What we did is looked up the recidivism rate currently, as was reported for the 2016 cohort for category B felons. What we noted here is that it's 21 percent. We could do additional calculations where we take this population then calculate that percentage, then say based on the current recidivism rate, this is the potential returns we could see.

What I think is incredibly interesting about this project and taking something on like this, from what I can tell the State's never really engaged in this kind of projection and discussion. So, whatever happens with AB 125, I see this as an opportunity for us to really figure out how do we calculate these things. What we've got here is what I would call key metrics, for what we're measuring. When I've discussed either with stakeholders or with the legislators, I see this as we don't know. If this bill passes, what we would do is continue to collect data including the recidivism rate, including the types of offenses we see coming back, including what the actual grant rate of these individuals are, and then try to zero in on how we calculate savings.

You can see here we used the daily inmate average. That's an average daily cost. But as many of us know who talk about the cost of corrections, that daily rate varies from institution. Some institutions it costs them \$80 a day, some it costs \$35. I think to your point, that bed is not just a bed, it's a discussion that's come up before and I think it's very difficult to capture. But I promise that whatever we do with

this analysis, is we're looking to capture all of that.

And I appreciate that point. I see this is a framework of here is the type of data we're going to collect, and we intend to continue to drill down on these cost savings so that neither the Commission nor the public is misled about what it actually costs to incarcerate anyone. I'll say my focus of this really was to show the impact of the agencies. But emphasizing here is what it's going to cost DOC to even calculate the sentences. And yes, we're talking about possibly empty beds at that point. But then look at what it costs parole to handle additional hearings. And then parole and probation to supervise those individuals. To your point, if they come back, we're looking at possibly more costs to process, admit anyone who comes back.

That's our thinking in approaching this and where we would start. I appreciate the input.

Vice-Chair Callaway: Thank you. I appreciate the answer.

Chair Hardesty: Any other questions for Ms. Gonzalez on her report? Ms. Welborn.

Ms. Welborn: Thank you, Chair. If it's okay, I'd like to ask a question of Mr. Callaway. I would like to see if the Commission might be interested in seeing the categories of offenses, that align with whomever may have been released during the Covid-19 pandemic so we can kind of get that bigger picture. I'm also interested, some of the conversations back when we talked about AB 236, I think there was always the reality that we'd face that there would be at least some recognition that people might recidivate. That's the nature of individuals when they reenter society, the amount of resources we've provided for individuals that of course, they might reenter the system. So, I'd be interested in knowing and following what type of offense that may have been, what the circumstances could have been for that individual, because I think that that's part of this larger calculus when we're considering what policies we're going to recommend to future legislators.

So, I'd be very interested in seeing that and also, perhaps Ms. McNamara, if it's okay, she might be intending to address this later on in this conversation, but I'd be interested in knowing how that weighed into the conversation and negotiations of AB 236 just to remind some of the Commission members who may not have been an integral part of that process.

Vice-Chair Callaway: Thank you, Ms. Welborn for the question and I will get that data for the Commission because just recently, I was on a call with Quentin (Ward) and our Chief from CCD and he had mentioned that we had tracked that data, so I'd be happy to provide it.

There's also a study that our Captain had done at the Convention (inaudible) Command, which is currently in a draft stage waiting approval. I think it's relevant to this discussion even though it's not specific to NDOC. We have seen a disturbing trend where violent offenders who in some cases have committed attempted murder or assault with a deadly weapon against someone, in particular in our resort corridor, who within a day or two are back out on the street and engaged in other violent behavior. We have those cases we have tracked as well and we did a study on that which as I said, is currently in the draft stage. And as soon as that study is approved by the Sheriff, I'd be happy to provide it to the

Sentencing Commission as well.

Chair Hardesty: Great. Let me ask Mr. Hicks, if he is aware of any similar studies or evaluation either by the Sheriff's Department or his department, in Washoe County.

Mr. Hicks: Specifically, studies to address, I'm sorry, what specifically?

Chair Hardesty: The recidivate or recidivisms by category and individuals who were released in the course of the pandemic, or as Chuck just mentioned, a tracking if you will, of those who are arrested for violent crimes and are released on either bail or their own recognizance and recidivate soon after having been released.

Mr. Hicks: There's not a study on point with that, that I could reference going on. We're not tracking them right now. I do think there are mechanisms to do that through the Uniform Crime Reporting statistics and different avenues like that. But I do think it would be valuable information.

Chair Hardesty: Perhaps we can check with Ms. Noble also, when she provides her report on the subaward work that's being done in your office, Mr. Hicks, and we can expand the scope of work in that process.

Mr. Hicks: It's certainly something we'd like to look at and, there's so many different data points that are relevant in this discussion. She'll explain later, but we are trying to track similar types of data.

Chair Hardesty: Great. I applaud the Department's effort here. They're trying to get a full picture not just a partial picture of the costs associated with these bills and there are as Ms. Welborn, and you have recognized, Chuck, recidivism activity that should be part of a calculus. Are there any other questions for the Director with respect to the content of her report?

Ms. Brady: Thank you, Chair. I have a question about when we get this data, are we going to make sure that we are able to drill down and make correlations? For example, between programs that these people are or are not able to access, we will be able to say, this person was on a waiting list for a bed at a treatment center and never got in, and then recidivated or committed a new crime? Are we going to be able to get that kind of data? Because right now, we had AB 236, but we still are lacking in treatment services, mental health services, all of those things have waiting lists and there are access issues. That would be one thing I'd be interested in seeing. Not just who's recidivating and that sort of thing, but the kinds of things that they were trying to get into, were they able to get a job, etcetera. Things like that. If not, what are the impediments so that we can apply for grants, or attribute money that comes in for services in the future to needed areas that will help reduce recidivism.

Chair Hardesty: Great question. I'll ask the Director to respond, but we're getting pretty granular when we get into those kinds of inquiries. Tracking an inmate from one bed to the next is going to be pretty difficult, but Ms. Arnold or Ms. Gonzalez, any comment?

Director Gonzalez: Yes, thank you, Ms. Brady. You bring up another point of this whole picture that

we're trying to capture. And I think the first thought that comes to my mind is how much that goes into we identify as "savings." If we're looking to make sure there's certain housing, or treatment, or programs or whatever it is they may need. I think what's important for our approach with anything we're collecting, is we all know we don't have one statewide database to get information. But one thing that we've absolutely leaned in to, is that there are various sources for data. So, when we're looking to make conclusions, those conclusions are going to be based on a variety of sources of data, which is kind of my point when I get to identifying that in our criminal justice data hub. If we do have a key metric that we want to start collecting data that's related to recidivism.

And I think that while it may be difficult specific to this project, which I'm not not going to try, I'm definitely going to look in to. But I think in general, we could look at related data. And I think if we're able to get some data in general about what can we track with who's been able to get Medicaid. What can we track with who's been able to get a proper ID, and I think if we just see how those programs are going over here off to the side and we look at this information over here, while it's not a perfect assessment and perfect conclusions about what's happening, it does tell you what's happening in the State. I think to your point, we would be happy when we're gathering information and have some information for you in general, about what's happening and continue to add that to our list of here's data we want to know and here's where we're adding that we think is important to know.

I think there will be a way to provide you some information about that. Even if it's not specific to maybe these individuals. We'll be able to tell you what's going on with what are the drivers of the recidivism.

Ms. Brady: Thank you.

Chair Hardesty: Any other questions? Yes, Dr. Lanterman.

Dr. Lanterman: Thanks. I'd like to just follow up on some related comments made by Vice-Chair Callaway and Ms. Jones Brady. There are certain types of offenses we refer to as high base-rate offenses. These are types of crimes that are frequently committed, just at a much higher frequency. Typically, the lower the severity the more likely they are to be repeated, and so these are the individuals who sort of contrary to popular thought, are actually the individuals who have the highest risk scores.

So, if you're looking at risk and needs assessments, people who commit relatively minor property offenses who have a history of substance use disorder, actually tend to have much high-risk scores, than say, somebody who has committed a really serious violent offense. So, when we're thinking about people being released for any reason, but in this context relative to Covid, you would absolutely expect people who have been charged with or convicted of relatively minor offenses, or compared to minor offenses, to be much more likely to reoffend than other people.

It's really important to keep track of these instances where you do have people who have been charged with or convicted of very serious crimes who are reoffending, what we call short time to failure. That's really important to keep track of. Because that's fairly anomalous. We need to figure out what's going on there. But with individuals who commit these high-based rate offenses, particularly if they're living with certain types of criminogenic needs, like active substance use disorder, you absolutely cannot,

there's no real reason to expect that they will not reoffend, if they don't actually have an intervention program that is targeting their particular criminogenic need.

So, while those data are difficult to track, there is a real significant difference between an individual who say, has been convicted of a property crime and is living with substance use disorder, and is released and has access to treatment. And individuals convicted with a property crime who has substance use disorder is released and does not have access to treatment, and an individual who is convicted of a property crime and does not have a substance use disorder and is released.

So, there are some really significant differences across the groups, and we can't really thoroughly understand or contextualize that reoffending behavior if we don't have the information about their access to or engagement with programming in the communities. So, this is a perennial problem with data relative to community-based programming that is actually real important for us to understand what's going on. We would do well to invest the resources that are available to us to actually figuring that out.

Chair Hardesty: Thank you, Doctor, for that input. All good points. I think, Chuck, the reports you're talking about are focused on tracking offenses, as part of that. Any other questions or comments associated with the Director's presentation? Let's move to agenda item 5.

5. Update on the Impact of the Covid-19 Pandemic on the Nevada Department of Corrections

Chair Hardesty: Good morning, Director Daniels, and your team. Members of the Commission we received a power point and we'll put it on the screen here. Director if you're ready to proceed, we appreciate your presence and your team's presence and your input today if you'd like to begin.

Director Daniels: Good morning, Chief Justice Hardesty, Vice-Chair Callaway and members of the Sentencing Commission. This is Charles Daniels, Director of the Nevada Department of Corrections. First, I want to thank the Commission for providing me with an opportunity to present information about the Nevada Department of Corrections. My executive team and I will present and discuss via power point slide show, the impact the Covid-19 pandemic has had on our agency.

We will present an informative timeline commencing with the onset of the pandemic in February 2020 to present. Please feel free to ask questions at the conclusion of the presentation. I have several members of my executive team who will be chiming in during certain portions of it. In my Las Vegas office, where I'm at right now, we have Dr. Michael Minev, Medical Director, Brian Williams, Deputy Director of Operations, Chris Franklin, who is our Management Analyst IV.

In our Carson City office, we have Harold Wickham, who is our Deputy Director of Programs, William Quenga, Deputy Director of Prison Industries, Christina Leathers, who is our Chief of Human Resources, and she will be the one who is controlling the power point, and we will also have Jorja Powers, she's the Chief of our Offender Management Division.

On February 27, 2020, Dr. Michael Minev, our Medical Director, sent out materials to medical staff,

educating them on the possible signs and symptoms, risk factors and modes of transmission of SARS-CO-2, which will now refer to as Covid-19. On March 16, 2020, I issued a statement advising all staff on the progress made to address staff and inmate safety. Firewalls were set up between facilities and the community, suspending all inmate visitation, inmate access to the community and reentry of all non-DOC-serviced providers. In addition, legal visits were modified to video calls only. In DOC-facilitated programs such as substance abuse, reentry, mental health, educational services, however, were allowed to resume as scheduled with reduced capacity to maintain compliance with current Covid protocols.

Emergency Operation Centers, or EOCs as we call them, were staff-less in all DOC facilities to allow for efficient tracking and communication of all things related to Covid-19. Town Hall meetings were also implemented in facilities for wardens and executive staff to relate Covid-19 related updates. Town Halls were also utilized to allow for staff and inmates to ask Covid-19-related questions and to seek for clarifications and Covid-19 protocols. If you're not familiar with the term Town Hall, this is basically a meeting that consists of either a group of inmates and/or employees, where we not only present prepared information with the latest data available, but we also allow them to ask questions, then we will answer those questions if we have them or we will get back to the inmates or the staff if we had to follow up. And we learned a lot about what was going on at each of our facilities through these Town Halls in our EOC.

On March 18, 2020, NDOC employees were declared essential workers and were authorized to continue working through the pandemic. Dr. Michael Minev issued an order that all employees will have their temperature taken and documented in a monitoring book prior to entrance into any NDOC facility. Protocols were also implemented regarding employees receiving temperature checks as well as guidelines for individuals exhibiting cardinal signs and symptoms and post-exposure to infected individuals and areas with a high-prevalence of Covid-19.

On March 20, 2020, inmates were provided with two free phone calls per week in response to the cancellation of visiting privileges. On March 26, I issued a statement confirming that the NDOC had their first Covid-19-positive staff member at High Desert State Prison. Per response, Warden Johnson of our High Desert State Prison took the following actions:

The employee was instructed to self-quarantine at home and all inmates who have had close contact will quarantine in their cells and monitored. On the state level, medical staff continue to provide health screenings prior to entrance into the facility. Surface sanitation teams continue to clean surfaces in all facilities.

In April of 2020, Deputy Director of Operations Harold Wickham at the time, issued a statement advising of CDC recommendations to utilize personal protective equipment or PPEs, as well as announcing that Prison Industries would begin manufacturing and distributing PPEs, such as gowns and masks, as well as hand sanitizer to supply the Department during the nation-wide shortage. Covid-19 protocols, screenings and guidelines for quarantine, and isolation for both staff and inmates were also updated to reflect updates released by the Centers for Disease Control and Prevention, better known as CDC.

On April 14, I issued an update regarding the success of the EOCs and their ability to help contain the spread of Covid-19 by utilizing the following statewide protocols:

Medical screenings for all staff; the utilization of surface sanitation teams by thoroughly cleaning all facilities using a solution with 10 percent bleach concentration and issuance of face mask and hand sanitizer to all staff. On April 27, I issued a statement making it mandatory that NDOC employees working inside a secure facility wear a protective mask. In this statement, I also reminded all supervisors, that no staff member would be allowed to return to work until cleared through Dr. Minev.

On May 8, 2020, Dr. Minev issued an update to the list of symptoms clarifying that a fever was now defined as a temperature of 100 degrees Fahrenheit or above. On May 19, I announced the first Covid-19-positive inmate at High Desert State Prison. And on May 26th, I announced that the NDOC has confirmed four inmates have tested positive for Covid-19. Those positive tests have triggered the following modifications to the current protocol: All staff and inmates will be tested for Covid-19.

On July 31st, Covid-19 protocols were once again updated. Staff will now be tested for Covid-19 every two weeks beginning Aug. 3, 2020. In addition, transportation and hospital custody officers will continue to be tested weekly. On Aug. 19, 2020, NDOC employees were advised, that they would be able to bring family members to get tested at NDOC facilities.

On Nov. 19, 2020, an emergency Covid-19 meeting was held between the NDOC, the Governor's Office and the Department of Health and Human Services, and Department of Public and Behavioral Health. On Nov. 19, 2020, Covid-19 protocols were updated, mandating staff members who had had close contact with any inmates with confirmed Covid-19 infection, further defined as contact within less than six (6) feet, for an accumulative time of 15 minutes or more, over the course of their shift, would have to wear an N95 mask at all times.

On Dec. 7, 2020, weekly meetings with all wardens to discuss daily operations and Covid-19 updates were initiated. Also, the emergency response manual was revised with emphasis on Covid-related sections. Section 13, which falls under Employee Job Action/Work Stoppage, as well as Section 14, Medical Emergencies including infectious diseases. By Dec. 9, 2020, BynaxNow Rapid Test were authorized to be used in conjunction with the use of the PCR swab testing, through Quest Diagnostics to clear staff to return to work. Per the Department of Health and Human Services, the BynaxNow test required verification with a PCR swab testing. The gold standard until enough tests were done to confirm the accuracy.

On Dec. 21, staff from the DHHS conducted a visit at High Desert State Prison, located in Indian Springs, Nevada. In response to rising Covid-19 cases at the Northern Nevada correctional facilities, an emergency Covid-19 meeting was held between DHHS and DPBH, the Governor's Office and NDOC on Dec. 24 and Dec. 25.

On Jan. 1, 2021, NDOC announced that NDOC staff will be offered Covid-19 vaccinations. In Southern Nevada, staff vaccination efforts began on Jan. 6 at the Casa Grande Transitional Housing location. Beginning Jan. 3, the executive team lead a state-wide campaign to encourage staff to receive the Covid-19 vaccine, touring all major facilities were conducted to meet with staff and discuss the importance of the vaccination.

On Jan. 4, 2021, masking protocols were updated. All NDOC staff, inmates and visitors were required to wear an N95 mask at all times while on NDOC property or sanctioned off property movements. For

example, court visits, fire crews, in and of itself, as well as inmate porters, etcetera. Then on Jan. 5, there were revisions made to the facility operations procedure 490, which is an institutional sanitation and inspections, specifically with regards to infectious disease control. The DHHS conducted another NDOC site visit on January 18th, this time at the Northern Nevada Correctional Center in Carson City.

Covid-19 inmate vaccinations officially began at NDOC in March of 2021. In line with the DHHS guidance, the first group of inmates vaccinated were those 70 years old and above. Vaccinations began at the Florence McClure Women's Correctional Center on March 3, followed by other institutions in Northern as well as Southern Nevada.

Also aligned with DHHS guidance, Covid-19 vaccinations begins for inmates in all age groups by April of 2021. This massive undertaking to vaccinate all consenting inmates began on April 5, 2021, at the Casa Grande Transitional Housing facility. NDOC facilities statewide followed soon after. On April 20 and 21, Lovelock Correctional Center received aid from the Federal Emergency Management Agency, better known as FEMA, to assist vaccination of inmates at their facility as well as nearby camps, at Humboldt, as well as Carlin.

Other outside agencies such as the local pharmacist in Ely and local health departments at Tonopah, Wells, as well as Pioche, had also provided assistance in vaccinating staff and inmates in our facilities throughout Nevada.

As vaccination rates gradually increase with NDOC staff and inmates, visitation resumed at NDOC facilities on May 1. The Covid-19 mitigation protocol in place, such as inmate and visitor testing, and the use of plexiglass between the visitor and the inmates.

As of May 19, 2021, NDOC had four active inmate Covid-19 cases and 12 active staff, Covid-19 cases. There's also been a total of 4,565 Covid-19 cases among inmates and 1,101 Covid-19 cases among staff since the pandemic began. Covid-19 mortality for offenders at NDOC stands at 1 percent currently compared to 1.7 for the state of Nevada as a whole.

Finally, there has been a cumulative total of 48 confirmed Covid-19 related deaths among the inmates, and three confirmed Covid-19 related deaths among staff. Dr. Minev, are you interested in further elaborating on that, or would you like to take it at the end?

As of May 18th, 2021, 1,276 staff or 50.5 percent have received the Covid-19 vaccine. In addition, 5,967 inmates or 56.3 percent of the total inmate population has been vaccinated for Covid-19. The Nevada Department of Corrections has tentatively scheduled to reopen core services, such as the law library, religious services, and programming on June 7, 2021.

There are also plans to collaborate with the Nevada Division of Emergency Management, Lanita Magee Operations Chief. State of Nevada Division of Emergency Management is currently reviewing our request for assistance at other facilities. Nursing, medical provider duties include: weekly Covid-19 offender and staff testing, Covid-19 inmate visitation testing, daily sick-call visits, triage for offenders, STD offender screening, chronic disease clinic visits for offenders, intake history, and physical medical provider for new offenders at H.D.S.P., and phlebotomy services for offenders in need of blood draws.

Chiefs for these teams include; Kelly Barrati, Deputy Operations Section Chief; the Warehouse Group

Supervisor, Eric Wilson, Logistics; Section Chief NDEM State of Emergency Operations Center, and Danielle Allen, Training Officer I; ESF8 and L&L Nevada Department of Health and Human Services, and Rodney Wright, State Exercise Officer, Nevada Public Safety Division of Emergency Management. The NDOC continues to encourage both staff and inmates to receive Covid-19 vaccinations in our on-going fight against Covid-19. Staff continue to work tirelessly during the pandemic.

At this particular time, before I open up to questions, I'm going to turn this over to Dr. Michael Minev, to see if you want to update any of the information or elaborate. Thank you, very much, Chief Leathers, for moving forward with the presentation.

Dr. Minev: Thank you, Director. This is Michael Minev, Medical Director for Nevada Department of Corrections. I wanted to provide a little bit more information in regard to the data that was presented by Director Charles Daniels during the presentation. As of May 18, 2021, we have 50.5 percent of NDOC's staff has received at least one dose of the Covid-19 vaccine. And 56.3 percent of NDOC total inmate population have received at least one dose of the Covid-19 vaccine.

The estimate at this point is that 38 percent of NDOC offenders are fully vaccinated. Fully vaccinated status refers to an individual who has received either two doses of the Pfizer or Moderna vaccine. That means they've not only completed the two doses, but they've had a period of time of two weeks after the second dose. Or, they have received one dose of the Janssen vaccine, which is the single-dose vaccine and they have completed two weeks after the single dose of the Janssen vaccine.

That's all the information I have, and I'd be happy to answer any questions anyone may have in regard to our Covid-19 vaccination or mitigation strategies going forward.

Chair Hardesty: Thank you, Doctor, and thank you Director Daniels. A couple of follow-up questions. One, what is the fully vaccinated percentage of staff as of May 18? Do you happen to have that number?

Dr. Minev: Thank you for that question. Right now, what I can say is that 50.5 percent of NDOC staff have received at least one dose of either the Janssen vaccine, Moderna or Pfizer. Unfortunately, I'm unable to tease out the numbers of those individuals who are fully vaccinated. Since a lot of the staff are going to receive vaccinations out in the community. What I can tell you at this point is that at least 50.5 percent of NDOC staff have received at least one dose of a Covid-19 vaccine.

Chair Hardesty: Thank you. Second question is, what is the NDOC mask use policy as of today and what will it be, and will it change or is it expected to change anytime in the near future?

Dr. Minev: Thank you for the question. Currently, we are sticking to the requirement to have all NDOC staff, offenders, and visitors to our facilities wear N95 masks at all times. We are currently in discussion regarding the new CDC guidance. But we have not made a determination in regards to mask requirements at this time.

Director Daniels: I'd like to further elaborate on this. As it relates to the visitors, all of them, if they're going to visit within the facility have to wear a mask, but that's not specific to an N95, and they also have to have a Binax lab test before they can be permitted. Now, for the inmates who are receiving a visit, all of the inmates must wear an N95 mask. I just wanted to elaborate on that little distinction.

Chair Hardesty: This is a separate question, partially related to health, but partially related to the challenges that the courts are having around the state getting jury trials started again. Director, you might recall we had a conversation about access for attorneys to confer with their clients and/or potential witnesses in the system. I know you were open to allowing that access to occur. I just wondered if you could comment, has that been taking place and what are the protocols with respect to the communications between inmates, their attorneys and/or inmates who might be witnesses so that trials can begin with respect to those cases?

Deputy Director Williams: We are allowing attorneys to come in and visit during our visitation. We've also been in contact with several judges and we're also setting up ZOOM links so that way they can participate virtually in our facilities as well. Each facility has been challenged with setting up those systems. I've also been in contact with Chris DeRicco with the Parole Board to try to also get those things set up and work out a schedule, that way we can accommodate all parties whether it be the courts, parole board or AMCs, we're good to go at each one of our facilities moving forward.

Chair Hardesty: Thank you, Director Williams. Let me offer this, the Supreme Court is considering the formation of a commission to evaluate the continued use of virtual communications in certain matters. It would be very useful, I think, to the Supreme Court to hear from NDOC and get your point of view on the use of virtual communication going forward. Some things have come out of the pandemic that have been positive and one of those things, I think, has been the use or potential continued use of virtual hearings or communications on some matters, not all but some, and I would really appreciate your perspective on areas where you feel that works, areas you feel there are problem areas. And as well, communication to the Department of Sentencing Policy, how that may have affected your travel budgets and your transportation budgets of your inmates to various courts and other hearings around the state.

I know you've been really challenged in all this process. I really appreciate your cooperation and we really appreciate your perspective if you could communicate that both to the court as well as to the Department of Sentencing Policy.

Director Daniels: We have once again, we currently do authorize extensive legal visits and so on. We don't have an issue. As with any endeavor, we're challenged with the cost of maintaining a program that requires much more bandwidth and additional video equipment. Nonetheless, I've spoken with several of the judges. They've called and we've had this conversation, and many of them actually like the fact that we can perform a lot of the duties that assist them as well with not tying up so many people and so on.

We are a proponent of more of it. We know that it works. But as with anything, we need to be up front and share with the judges as we've done, there's a cost to it. To have staff there to monitor it, and we also have to have the physical equipment to facilitate it, many of the court-type proceedings. In addition to that, we're going to have to have the bandwidth as well as our ability to record and so on so that it works. And we can do a job that's commensurate with what the courts expect.

Everyone who I've spoken with has been very positive about it. We've uncovered some things that actually work probably better than the old system. So, you can rest assured we will keep our data. I am always open to a phone call from anyone and if you provide me with specific data you want us to track,

I will be more than happy to be sure you get it at the interval you would expect.

Chair Hardesty: Thank you, Director. And mostly what I'm seeking is your input and suggestions about any challenges you face. The issue of bandwidth is a common issue throughout the state. I know the American Rescue Plan and the Treasury guidelines associated with that, contemplate some use of those funds for improved bandwidth and frankly, part of the effort of this Commission, that the Supreme Court is considering is to catalogue some of this so that requests can be made to the legislature when they decide how to approach the allocation of the American Rescue Plan to help facilitate improved operational costs through these virtual hearings.

Virtual hearings are not always the best in all cases, but certain cases they certainly are warranted. And having your input, Director, and your team's input would be very helpful for the court's consideration.

Director Daniels: Thank you very much, Chief Justice Hardesty. Yes, we will provide you with the information and we look forward to working more with the courts.

Chair Hardesty: I believe Ms. Welborn has a question and then we'll invite other Commission members to ask any questions, or comments. Ms. Welborn.

Ms. Welborn: Thank you, Chair Hardesty. Two questions. The first one, some members of the public had trouble hearing the vaccination rate for incarcerated individuals. Could you just repeat that one more time on the record and delineate who's fully vaccinated, where folks are at in the stages of the vaccination process just one more time for clarity for the record. And then my second question is, I'm curious about what department is considering for those correctional officers who might be declining to be vaccinated and whether or not they will continuously be asked to wear a mask while on duty.

Dr. Minev: At this time, 38 percent of NDOC's offenders are fully vaccinated. That is defined as again, for individuals who have received two doses of either the Moderna or Pfizer vaccine, they have completed not only the two doses but the two-week period after the second dose. Or they have received one dose of the Janssen single-dose vaccine and have completed a two-week period following the single-dose of the Janssen vaccine.

That compares to as of 5/19/21 of the Nevada Health Response Dashboard data, shows that 31.59 percent of the state of Nevada's population is fully vaccinated using the same definition that I repeated earlier in regard to the definition of fully vaccinated.

Ms. Welborn: The rate has improved. It seems that it's improved the last time a report was given publicly on this matter. And there was some discussion about a lack of willingness for some of the inmates to want a vaccine. Are you still experiencing that process? Do you have enough doses to vaccinate everyone? And two, is there still resistance to folks and three, what can we do to assist in helping those people feel a level of comfort to be vaccinated?

Dr. Minev: Thank you for your question. There were periods of vaccine hesitancy particularly in relation to some of the side effects that were noted with the Janssen vaccine, particularly in females in relation to blood clots. Naturally, some of the female offenders at Florence McClure Women's Correctional Center were wary. Obviously, we immediately took away the Janssen vaccine that aligns with the FDA

recommendations.

Despite that, we did have a sizeable portion of female offenders who did not want to get the Moderna vaccine because of concerns there might be associated side effects with those vaccines, also. I have personally gone out with my nursing staff, Chief of Nursing Leah Torres, as well as nursing staff to all our southern facilities to personally vaccinate inmates. It's been a very rewarding experience. I'm very proud of our nursing efforts to vaccinate as many offenders as we possibly can.

We do have enough vaccine available through the health departments. Not only here locally in the south but also in the north to vaccinate offenders. We've been very fortunate to, just recently we did have a meeting through telephone with Lanita McGee, which was mentioned during the presentation, from the Department of Emergency Management. They've been extremely generous in lending us support with vaccinators to come out and help with our vaccination efforts. We actually do have upcoming vaccination clinics on May 24 at High Desert State Prison. Again, that's going to be with assistance from Department of Emergency Management. They're going to help us with their vaccinating staff, to come out with us and our nursing staff. We also have vaccination clinics scheduled for May 25 at Warm Springs Correctional Center, Stewart Conservation Camp on May 25, and we also have a vaccination clinic at Southern Desert Correctional Center on May 26.

We do have enough vaccine to supply our offenders. Sometimes it requires speaking to offenders in either groups or small individual scenarios to talk a lot of the offenders into accepting the vaccine. I know personally, I've gone to Florence McClure Women's Correctional Center, and I've met personally with offenders. And I found that to be a better strategy in answering individual questions from offenders who might be hesitant about receiving the vaccine. It was definitely a rewarding experience because we were able to talk a lot of offenders who were hesitant about the vaccine into attempting the vaccine.

Chair Hardesty: I believe there was a second component, Ms. Welborn, but to be honest with you I forgot your first question. Could you repeat it, please?

Ms. Welborn: The second question was whether or not the Department intends to mandate that any corrections staff who are declining to be vaccinated, that they wear a mask.

Director Daniels: The answer right now is no. There is no requirement nor are we visiting that requirement for all staff to have mandatory vaccinations to be able to work. What we noticed is that, over the time since we began dealing with this issue, we noticed that whatever we provide or direction we give, we understand it's really more of a continuum depending on where we're at, the rates that we're having, are we getting a lot more infections, more virus spread. Are having outbreaks or not? That guidance in many respects driven by this CDC, as well as our state Health and Human Services Department. There's a lot of collaboration going on.

We also have to take into consideration that our employees are State employees as well, and although we're in a specialized environment, they still have the rights afforded to them that all State employees have. We try to encourage and influence, but right now we're just trying to work through what we're dealing with and, so I can tell you right now as of today, although we've had those conversations regarding the mandatory vaccination process, we currently are not mandating it. That's where we are as it relates to the vaccination process. Would you like me to elaborate or follow up further?

Ms. Welborn: My question was not so much about mandatory vaccination, there's lots of issues there, from medical, civil rights standpoint. I understand that there. But, as to for those who are declining, my understanding is that you had a mask mandate within the Department for all correctional employees. If folks are declining to be vaccinated or are not vaccinated, are they then still required to wear a mask?

Director Daniels: If you are assigned within a secure facility, all 100 percent of my staff must wear an N95 mask.

Ms. Welborn: Thank you.

Chair Hardesty: Are there any other questions from Commission members for the Director? Yes, Mr. Arrascada.

Mr. Arrascada: I have a question and I guess it goes more toward bandwidth. We were talking about efficiencies. During the course of the pandemic and we received noticed in April regarding parole hearings, our office worked with the Department of Prisons to schedule phone call appointments with clients who are coming forth for parole hearings. We've been told in an email on April 30th, that because visiting is beginning again, that no longer is in effect. We've provided all our office phone numbers to the Department so they can make attorney/client calls. The problem is, if the client calls the attorney and the attorney is not able to receive the call, or is busy or in court, we can't call them back. So we get stuck in a lot of hit and miss with talking to clients who are to be appearing in front of the parole board.

Having the schedule makes it works much better from an efficiency standpoint, and also, I believe Chairman DeRicco would agree, speeds up the parole hearing process that we're not having to ask to recess or to delay the start of hearings to talk to clients that we've been unable to speak to because we can't call them back when they've called us.

My question is, would the Department of Corrections consider for the purpose of parole hearings, continuing to work with our office and I would assume Clark County, in scheduling the inmate calls so that we know they're set in stone as opposed to this hit and miss without being able to return the call?

Deputy Director Williams: We can definitely work with you as far as scheduling calls. We're open to anything to try to make this transition as smooth as possible as we begin the reopening. If there's someone in your office who can reach out to me, Deputy Director Williams of Operations, and I will work with them, and we will get that worked out to where this transition is smooth.

Mr. Arrascada: Thank you so much and thank you for entertaining a very long-winded question to what came as a short answer. I appreciate it.

Chair Hardesty: Any other questions for the Director or his staff? Thank you, Director. I appreciate your work and your staff, and your presentation today. Seeing none, let's move on to Agenda item number 6.

Director Daniels: Chief Justice Hardesty, I apologize for cutting into where you were going. I do have something else for the record if you don't mind.

Chair Hardesty: Sure, go right ahead.

Director Daniels: In closing, I want the Sentencing Commission to know the 2,600 professional men and women of the Nevada Department of Corrections were designated as essential from Day One and we're not afforded the opportunity to telework. All uniformed and non-uniformed employees were required to report to duty, in spite of having to deal with the issues impacting the rest of us in the community. To include childcare issues, instability, loss of employment, income, based on whatever was going on with their family, and also, they had family members as well as themselves contracting Covid-19. And in some cases, that led to death to include members of my own family.

Having said that, I am proud of their dedication, commitment, acceptance of responsibility and willingness to "man the line" in our prisons, conservation camps and transitional housing. I salute each and every employee for their sacrifice while keeping our society safe. Sir, with that, that ends my presentation, Chief Justice Hardesty. Back to you, sir.

Chair Hardesty: Thank you, Director. I appreciate that remark and that observation. I am confident all of the Commission members share your thanks and appreciation to your staff for conducting their duties appropriately and with dignity during a challenging period of time. We share in your comments and appreciate their service. Thank you, sir.

6. Presentation of the AB 236 Report: Supplement prepared by the Nevada Department of Sentencing Policy

Chair Hardesty: We had a report at our last meeting. It was quite a discussion about that, and questions asked. Staff has worked to provide a supplement answering some questions. Victoria, if you would, please walk us through the supplement that's attached.

Director Gonzalez: Thank you, Chair. We took the opportunity based on the questions, discussions from the previous meeting regarding that first AB 236 Report, to put together answers to those questions and then some visualizations that I thought would not only help answer some of the questions and address some of the discussion that came up, but help set the tone for what we hope to do in the future as we continue to experiment with how we could organize this information in the way that makes it the most meaningful to the Commission and to the public, when it comes to evaluating this information.

As the Chair said I will walk through the report and put it on the screen as well. We had hoped to get this to the Commission well in advance of the meeting, and I believe we got it to you on Tuesday or Wednesday. I hope you've had enough time to take a look at it and again, we're looking forward to any input and feedback you have as we continue to evolve in how we like to put together publications for the Commission, to help the Commission that then come out of the Department. I want to thank all the individuals we met with in order to continue to learn more about data and how to present it. I want to thank the staff for everything we put in. You can see there's a huge, couple evolutions that we've realized based on our previous publications and I'm really excited to share this with you as we continue to learn and figure out what again is most meaningful.

And I want to thank our friends at NDOC, who we continue to work with and learn from. I am prepared

to answer questions when I'm done at the end of the report. But I do have them here with us. So, whether they would like to help in answering those questions. Or I may use them as a 'phone a friend' depending on the questions that come up.

Introduction, a couple of things I want to highlight is the purpose of this report, and what the source of the data is we used. The data came from several places. It came from data that was reported back in February in the AB 236 Report. It was data we collected in response to the meeting back in February. We went back and looked at data that was used to develop AB 236 so that we could look at some of those comparisons and some of those key metrics that were used when we got here in the first place. And just other data we continue to collect as we either had discussions with stakeholders or DOC or any other questions that came up that we thought might be helpful. And we've sourced those appropriately throughout the document.

The other thing I want to note as you can see with the other notes, we have here, this has not been adopted by the Commission, so we've made it clear it's from the Department. And while the AB 236 Report included recommendations as approved and adopted by the Commission, this supplement does not include such recommendations.

One of the questions that came up back in February and was absolutely necessary for the purpose of the report was getting proper definitions, so we know what these terms mean and how we are going to use them. We worked with DOC, and we have come up with these definitions and terms that we'll continue to use when we refer to data metrics and other pieces of the report. First, the report is organized just as analysis of the population in general, the prison population. One of the things that we went back and reflected about AB 236 was, the projections that were identified when those policies were developed. The projections that were identified back from 2018, and the recommendations for AB 236 were to help alleviate some of that growth, slow the growth and see changes in the prison population.

As we know, because of 2020, Covid has also affected this. But I think these comparisons continue to provide meaning as far as where were we back in 2018? What did those projections say? How have the projections continued to change over time? And what is the actual population look like right now? In the lower right-hand side, this is an example of what I was talking about where we are working with DOC on getting regular information about additional metrics that will be important to keep track of.

This is the admissions and release rate information that we'll continue to track. This will be important, of course, in trying to determine what's happening as we're coming out of the pandemic and how that's affecting the prison population, so we'll be able to keep an eye on that on a regular basis. And at any time be able to maybe see what trends do we see happening, and keep an eye on those over time.

Another question that came up was the idea of taking some of the drug offense groups and looking at the top-10 offenses in each of those groups. We started with drug and property. At the Commission meeting, we were asked to look at the top-10 in all the offense groups that were reported in the AB 236 Report. However, we started with drug and property to see what this would look like, see what meaning it provides and see if this is the kind of information that would be helpful for the Commission. We can continue to work with DOC to get this information. I will note that these numbers do not line up to the data that was presented in the report, because these conviction counts are based on individual

sentences rather than being aggregated by offender, which is how the data was presented in the AB 236 Report.

Next, after an analysis of population, we move on to an analysis of admissions. One of the discussions that came up was trying to understand more about what the data tells us about those violators who are coming back from supervision. When the report was presented back in February, we divided the data up by parole violator w/new conviction, parole violator w/out a new conviction, and similarly for probation violator.

Here we've combined them just to show an overall comparison of who's coming back from supervision, which is similar to how the data was presented back in the recommendations for AB 236. That AB 236 data that was presented to develop AB 236, did break it down by those without a conviction and with a new conviction. I believe aggregating the data this way is also meaningful.

One of the things we're learning as I mentioned as an on-going project we're going to work on with agencies and stakeholders, is understanding what it means to be either a parole violator or probation violator as AB 236 enacted those technical violations. One of the things we added here was clarifying what violation could be a result of. It could be a result of absconding, while it could be a result of a technical violation it's important to note a technical violation also includes the commission of certain crimes. But there are crimes that are exempted from that. So, we want to make clear that a violation could be a commission of certain crimes that's not a technical violation. It could be a technical violation which also could include a commission of certain crimes or conditions of supervision.

Additionally, some of these could be also parolees who are waiting for the outcome of a hearing that will determine whether or not they've been revoked. Being more aware of what this data could include or represent, we're going to keep these in mind as we're collecting data metrics and see what we can gather and present to the Commission to make again this data more meaningful so we can assess what's happening and what recommendations could be made.

This was mirrored off some of the data that was presented in the development of AB 236, so I thought we could do a similar comparison here, by grouping the offense groups by violent and non-violent to see some trends. As we know, in the background of all of this data analysis, is AB 236 did not go into effect until July 1, 2020. Additionally, we have the onset of the Covid-19 pandemic. In the future, any data we present from 2020 will have the caveat that the data could be a little confusing but at least it provides some information and comparisons that we again, even just looking at this we can try and determine what trends we see.

Again, this was modeled off of a comparison we saw back when the recommendations were developed by grouping what the criminal history looks like for those with prior offenses. When we presented the data in February, we provided the specific numbers of those who had zero (0) prior felony convictions, one (1) prior felony conviction, and so on. So, here we group them just so we could see maybe the data and how it could be analyzed and looked at a little differently.

In response to a question that came up and discussion that came from the February meeting and in response to the report, was wanting to understand more about those admissions with zero (0) prior felony convictions. We worked with DOC to start experimenting with what kinds of data we could collect.

This is an example of the data we could collect about those admissions, who had zero prior felony convictions. As was discussed, the assumption or possible conclusion could be made that just because someone's admitted with zero prior felony, doesn't mean they don't have a criminal history. While this data, we did not aggregate it because it's not offender-based, we can't track it through. By looking at each of these it can give you an idea of what those part of the admissions look like that have never, or according to their admission, they do not have a prior felony conviction. But clearly some of them do have 'other' interactions with the criminal justice system.

Again, another comparison of the data we saw grouping of those who are returning from supervision, generally. AB 236 has many policies directed at trying to make sweeping changes to everything throughout the criminal justice system including those with how individuals are being supervised, those temporary violations, the graduated sanctions. As we gather more information about this, this might be another comparison that again provides meaning as far as assessing who's a new commitment versus who's coming back from supervision.

Page 12 is an analysis of information that is related to the mental health or substance use. It's indicated at intake. One thing we did not clarify in the February report, was where this data came from. Just to clarify here, which we've added in this report, is that this data comes from the Nevada Risk Assessment System, Prison Intake Tool. What this is, is not the assessment of a mental health professional, but just based on the answers that they get while they're collecting information for the intake – do they see an indication of mental health? Do they see an indicator of substance use of a combination of the two?

We've just clarified the verbiage here and where the sources of information, so that we can properly understand what we're measuring at admission.

Here's a visualization of the data that we had collected for the releases. This comes right from what we had put together in the report. But again, in our attempt to make things more meaningful, thought it might be helpful to have visuals to see where we see trends. Again, AB 236 by changing the penalties for certain offenses, and changing details about the thresholds for those offenses, over time we're going to want to see what trends we see in admission and releases in those category B and category Cs, as that's one of the things that AB 236 was looking to possibly have an impact on. So, we thought this visualization might provide some meaning when it comes to evaluating those information, whether we're talking about when the offenders are released or when they are admitted.

Just a little more information about releases. Here we have a mental health status that is different than the mental health and substance use indicators that we presented in regard to admissions. As you can see here, this mental health status is the result of an assessment that is conducted by a mental health professional and has a different measurement of what the impairments are that are measured from that assessment.

Similar to what we've done with admissions, if we want to see who is coming back from supervision, looking again at the supervision policies and the changes to that and what impacts we see, wanted to group the data here to show that comparison.

Finally on page 15, to wrap up the admissions and releases components of the report, to figure out who's coming in, who's going out, what does it look like and what are those numbers like overall, we

will do more detailed comparisons of this. But this overall trend, we can see how many are admitted and how many are released. Again, the caveat is here is going to be, Covid, probably. But over time we'll continue to be able to measure these trends. What we see of the number of those being admitted, what type of felony category we see and then when they're released, who do we see being released compared to who was admitted.

Our report also included information about recidivism. Something we did not clarify in our report was what the definition of what recidivism is for the purpose of this data. So, we've provided that here, it is calculated based on the year of release and a return within 36 months of that release. That cohort is labeled as the 2016 cohort. On the lower, right-hand side, I included the overall recidivism rate, not in the visual but in the text. I just want to clarify that those numbers are not represented in a visual, when you're reviewing the data that we have analyzed here, and what it's looking like for recidivists.

Page 17, we took some of the data that we reported and continue to try and experiment putting together some visualizations so we can get a grasp of who's coming back when it comes to this type of information. As previously discussed, we continue to look for other types of key metrics that we can use to measure recidivism. I think when it comes to trying to determine what the drivers are, what trends we see it is going to require taking different sources of data. But this will be one area where we can continue to evaluate what's happening. As we talked about, as we collect data over time, these visualizations will look different as we're comparing what happened in 2016 cohort versus the 2017 cohort and such.

Upon review of the recommendations that led to the enactment of AB 236, was the analysis of what was happening with female admissions and releases. Upon that review, we took that model and put together some information here that would be a comparison of what was presented to lead to the enactment of AB 236, and what we have now in terms of that data. Just to be clear, that was the rationale for putting together this type of comparison and analysis, was just to tie it back to what led to AB 236 and looking at some of those metrics to go back and compare and just evaluate where are we.

As we know, as the Division of Parole and Probation is moving over to their new offender tracking system, the data we have is limited, but thought it was still worth taking what we did have so there can be a visualization of what we see of those being supervised, whether they're on probation or parole. We have that visualization here.

To conclude this supplement, we have future reports we anticipate putting together. This report is an example of what we hope to do for our data digests, where we look for key metrics. We can provide visualizations and analysis of what data we see. As I mentioned, when we're looking into investigating and researching more about technical violations, graduated sanctions and temporary revocations, that's what we're looking for in future reports as well. Not only the data related to that, but the cost that's associated with that and any impacts, whether it's fiscal or practical to the agencies as they relate to those.

As I put here in conclusion, this is an example of us looking at the data, trying to identify key metrics that might be valuable for the Commission to continue to track over time to make recommendations. Whether they relate to AB 236, sentencing or the criminal justice system in general. We will continue to take recommendations from the Commission on what you see as important key metrics that we

evaluate and keep track of. And we can I guess experiment with those in our publication of them and our visualizations.

I wanted to thank staff for the work we've put into developing this. I'm very proud of this, as part of a huge evolution from where we started. And it is a great indicator of where we're going. I think this is an example of when I mentioned what we're hoping for, for data projects, someday, if we can build a data dashboard it would be something like this where someone can go in and look at these metrics and make your selection and see what we have. I think this is a great place to start. But I have to say part of this comes from the inviting feedback, criticism, and any recommendations from stakeholders, agencies and of course, this Commission. We definitely invite that, even if it's not today in this meeting, please send us messages or if you would like to set up a meeting to discuss more of what we did here. As we want to evolve and we want to improve and we see that, we can only do that if we take that feedback and work with those who are in the system and can give us the important feedback that is relevant. I thank staff and thank DOC and the other stakeholders who we met with in contributing to this. It's a great example, I think, of what this state is capable of when it comes to data and analysis.

With that, I'd be happy to answer any questions and turn it back to the Chair.

Chair Hardesty: That is a lot of information that has come at you. I think one point I would reiterate that the Executive Director made, and that is as you spend time looking at the data she has provided in this supplement, you will likely have other questions or questions, and I urge you to communicate directly the Executive Director for that information. I'm going to ask her to collect those questions so that other Commission members are aware of those inquiries and what the responses have been. That summary could, if Director Gonzalez, could be provided at the September meeting.

This is an evolving process. It's certainly been a challenge for the staff, and I applaud their efforts to try to reform and expand based on the input today. It's an on-going conversation that the Commission would be engaged in with staff as we expand and develop this data. Conclusions from the data I think will be a next step. I don't think we're there, yet. I think we have a ways to go. But we're getting a lot closer than we have been and I have to say, some of this data is stuff, Chuck, we would have probably liked to have seen more than a decade ago.

Let me invite any questions or comments from Commission members at this point. But certainly, you are encouraged and welcome to add questions to the Director directly, and then she'll offer comments or responses and then collect those and include that in a report to the entire Commission in September. Mr. Hicks, did you want to begin?

Mr. Hicks: Thank you. First off, I was at the last meeting the thorn in the Director's side that prompted a lot of this additional work, and I just want to commend her and the Department of Corrections for really working to get some of those answers out in a supplemental report. So, thank you. This is really helpful. I totally agree that this is a great start to some of that drill-down data that we've all have craved for all these years.

The one question I had, Victoria, I don't know if you can answer. But maybe somebody from the Department of Corrections can. On page 5, you give the prison population, actual as of December 2020 and it was 11,423. I'm curious, does anybody know what it is today, 5 months, 6 months later from that

December date?

Chair Hardesty: Director, do you or your staff have that number?

Jenna Buonacorsi: As of May 1, our total population count, was 11,050 offenders. However, please note that number includes our safekeeper population, whereas AB 236 data does not include safekeepers as they are not under Nevada jurisdiction.

Mr. Hicks: Could you explain what 'safekeeper' is, please?

Ms. Buonacorsi: A safekeeper is an inmate that we hold on the behalf of another state or court or bootcamper. The safekeeper population that would be included in our total population we include because they are taking up a bed space in an NDOC facility. In terms of AB 236, since they are in an agreement between a state that will hold an offender for them or vice versa. If you look actually, on page 4 in our definitions for an interstate compact, a safekeeper is essentially the opposite of that. So, interstate compact is our offender who we send in an agreement with another state, so it's the vice versa of the offender we're holding for the other state.

Mr. Hicks: Thank you.

Mr. Hicks: No, thank you.

Chair Hardesty: Okay. Are there any other questions from Commission members concerning this supplement? Mr. Callaway.

Vice-Chair Callaway: Thank you, Justice Hardesty. First, a comment, and I echo the comments made by Mr. Hicks. I want to thank Victoria for really taking this a step further and as you said, Justice Hardesty, for providing us with more in-depth look at some of these questions that have been raised for over a decade, for me, that I've been raising as a member of this body and as a member of the Advisory Commission and I really like slide 10, which I believe shows, although it's in the weeds, but not deep in the weeds. But it does give us a clearer look at the background of some of these folks.

And along that same line, I guess just a thought that has popped in my head, another thing that I've been preaching since day one, when you look at slide 6 for example, it shows under the influence of controlled substance 31. A number of 31 convictions in the population for under the influence of a controlled substance. Having done police work for years and years, I know that getting a conviction on a charge like that is difficult. There's blood draws involved, it's not something that typically someone who's under the influence of a controlled substance. And that's all they've done, is convicted and goes to prison. In my experience, at any rate. And I would like to see those 31, 31's not a large number, and I know it takes resources and time. But, I think it would be interesting to look at those 31 and to go back to comments that were made by the Doctor earlier, were those folks originally charged with some other crime and it was plea bargained down to under the influence of a controlled substance?

What does their previous criminal history look like? What programs did they either A, participate in, and the program did not provide them avenues to get off substance abuse. Or B, programs that were offered to them that they refused to participate in to get a totality of the circumstances. Because on the surface, I look at that number and say, how in the world can we put 31 people in our prison system because

they have a substance abuse problem and they're under the influence of narcotics?

It seems on the surface a travesty of justice, I guess. But when you, I think when we look beyond the surface and we look at the further details, we get a bigger picture of what might be occurring in our programs being successful. If all 31 of these folks participated in a substance abuse program and they still wound up in prison, maybe we need to re-evaluate the programs they're participating in. Or, maybe we see a trend where these folks refused to participate or they flunked out or failed out of programs. I think because that's a small number, it's only 31, it would give us that ability to go under the microscope with those folks and maybe get a deeper dig into what's really going on with them. Just an observation on my part. Thank you.

Chair Hardesty: Thank you, Chuck. Any other questions or comments from Commission members at this time? Alright, seeing none. Let me turn to agenda item number 7.

7. Update on Subawards

Chair Hardesty: This is an update on the status of the subawards made by the Bureau of Justice Assistance as well as then the Commission's authorization for the expenditure of those funds. The total subawards, which were provided with the help and assistance of the Crime and Justice Institute, was \$427,180.88. The requests were all approved by this Commission. The subawards must be spent by September 2021. Ms. Gonzalez, if you'd begin with that update and we'll get into specific presentations by those who received those awards.

Director Gonzalez: Thank you. For our Department, we requested a subaward in order to fund one of our employees that we were already appropriated for, which was Laura Arnold's position. In response to the Covid-19 pandemic, we were required to make certain reductions to our budget as all agencies were. That resulted in keeping her position vacant until March. Because of the subaward, we were able to then hire her sooner. We hired her back in November rather than having to wait until March.

I will say when we were interviewing, we let the candidates know that it is possible, we weren't quite sure if we were going to get the grant at that time, or the timing of. We knew we were going to get one, we weren't quite sure when we could get it funded. We told her just in case we don't get the funding, or we might be still looking at a March date. She was very excited to join our team, that she was willing to wait until March. Luckily, she didn't have to wait and she's been able to work with us. We got the full funding for that. She started with us in November. We immediately worked on our invoices to CJI and as of today, we have exhausted the funds that were granted to our Department. We have invoiced for all of our funds, and we received all of our checks.

You can see the work we've been able to accomplish because we had more staff. And we're able to continue to advance and support the implementation of AB 236.

Chair Hardesty: Great. Thank you, Victoria. Director Sherlock, from P.O.S.T., are you on the ZOOM and could you provide an update, please?

Director Sherlock: I am Mr. Chairman. I am the Executive Director of the Commission on the Peace Officers Standards and Training. As I'm sure your Commission recalls, under AB 236, POST was tasked with developing and administering a Behavioral Health Response Team grant program. Along

those lines we received a subaward to sort of develop the infrastructure for that grant program.

We received that subaward for about \$29,000. With that award, we have contracted with a consultant. He has met with numerous law enforcement agencies and behavioral health professionals throughout our state, but also in Southern California to gain their insight in the development of this program. The consultant has had several meetings with Los Angeles County's Mental Evaluation Team for best practices. They're pretty much touted as one of the top behavioral health response teams in the country.

We have developed a model policy and procedure for calls for service involving behavioral health field response teams. We've consulted with HHS for requirements for behavioral health specialists to join these teams. We now have a standardized curriculum for crisis intervention training. This was originally developed by the Memphis Police Department. We're using their model and our training is about 40 hours in length.

The curriculum will be available both on our website and also in person. Any officers who take that or any people who take that particular course will of course get a certificate of completion. We have developed a telephone and dispatcher curriculum for crisis intervention training. Peer review panel, which was part of AB 236 grant program, has been identified and is now in place. The selection was based on their expertise and passion really for crisis intervention. One is from the National Alliance on Mental Illness, the second is from the University of Nevada Police Department, the third is from the Reno Police Department, who is their embedded community resource officer.

Our consultant met with numerous grant writing experts, that sort of thing. We're looking to put out a quality product in terms of that grant application process. As of last week, we had about 474 hours into the project. We budgeted for 1040 (hours). So, we're on track to complete the project and have the entire infrastructure in place by the end of September and we'll easily exhaust that subaward. And I can take any questions the Commission may have.

Chair Hardesty: Thank you, Mr. Sherlock. Are there any questions for Mr. Sherlock, or I'll even add Ms. Gonzalez, if they're any questions of her regarding the use of the subaward by the Department. Alright, Mr. Sherlock. Thank you, and Victoria for your presentations. I don't see any questions, so let's invite NDOC to provide an update on their use of their subaward resources.

Chris Franklin: Chris Franklin, Management Analyst IV for the Nevada Department of Corrections. Good morning, Chair Hardesty and honored members of the Commission. Not that anybody's counting, with only 11 days left in this 81st Session, I will provide you with a brief update on our grant proposals since I know everybody's fairly busy.

As you are aware, the NDOC encountered several delays while processing work programs to approve our grant spending authority. Through the approval process of the State of Nevada, which have all been previously discussed during Sentencing Commission meetings. As a result, these unavoidable circumstances delayed our initial implementation of our proposed plan, and created a situation where a subgrant rewrite and budget amendment were necessary in order to meet NDOC deliverables and funding expenditure timeframes.

These changes also required us to again go before the Commission and request approval to submit these budget updates and changes through the awardee, and also delayed to the Bureau of Justice Assistance, which happened in February. This change included the addition of an administrative assistant position to support the quality assurance specialist and program officer positions thereby allowing them to focus primarily on their quality assurance and fidelity duties and deliverables and on the last of the data and reporting requirements.

The NDOC has continued to work with our technical advisors at CRJ and CJI. Since this past Sentencing Commission meeting and have already submitted our change request in order to meet our goals and deliverables. Currently we are waiting final approval of this plan. Once approved the NDOC is prepared to implement the hiring process and begin working on the deliverables. The NDOC has already provided the infrastructure for these positions by locating increased office space. Staff furniture has been moved into those offices and put in place, and some preliminary interviews for potential contracted candidates have already been completed.

I thank you for your time and I stand by for any questions by the Chair or the Commissioners.

Chair Hardesty: Thank you for the report I appreciate the update, it's good to see you and thanks for your comments, today. Are you able to estimate the percentage usage of the subaward thus far, and do you anticipate expending it by September or do we need to consider or look at extensions, if possible?

Mr. Franklin: That is a great question, Chair. We, with our updated budget, we're on track to expend the entire amount of the grant award. The first part of the grant award, as the Commissioners remember, it's pretty finite. It ends in September. Then we have a secondary part of the grant award, which can hopefully be extended through an extension request to BJA. Through CJI, they've reviewed it. They've accepted the plan and as long as it gets approved fairly soon, we'll still meet our timeline for expending the entire amount and meeting all deliverables.

Chair Hardesty: Great. Thank you. Are there any questions from Commission members on this part of the presentation? Alright, seeing none, let's then turn to Sgt. Rosales from the Division of Parole and Probation. Sergeant?

Sgt. Rosales: Hi, good morning, everyone. I think this is the first time I've joined a meeting, and everyone can hear me at first shot. We are scheduled to complete our NRAS master training class both in Las Vegas and in Reno. The class will begin at the end of June, will take place throughout the month of August. In contact with our fiscal team, we will be invoicing and paying and basically expending the \$36,000 from our subaward for the master trainer program by the end of August.

The last little bit, which was \$730, was for our analyst to work on a new tracking for our current NRAS assessments and he can complete that at any time, when he has the time available. So, we'll try to get that also completed before the end of August. That will wrap up all of the subaward.

Chair Hardesty: Thank you, Sergeant. I assume this has been helpful and productive to the Department.

Sgt Rosales: It will be vital to the Department so that we can continue training all of our staff in the

NRAS tool, as well as some NDOC staff, I believe, are going to come into our training and become trainers as well.

Chair Hardesty: Great. Thank you. Are there any questions for the Sergeant on her report? Alright, seeing none, let's turn next to Captain Carrao from the Division of Parole and Probation. Did you want to add anything, Captain?

Captain Shelly Carrao: No. Thank you for your time this morning. Sgt. Rosales, thank you. She is instrumental to the subaward regarding our NRAS and Epix, so we appreciate all the work she's done on that end. I'm here to give you an update regarding the car chargers. We received \$18,600 for car chargers for our officers to be able to be mobile in the field. We did receive those car chargers statewide back in March.

Since we've received them, it has greatly allowed our officers to maintain in the field longer. Conducting more public safety work, not only checking on our offenders to make sure they're compliant but they're overall health and wellness during the Covid height of the pandemic. It's been very beneficial for us to have them be able to be more in the field and less in the office having to recharge their laptops.

Chair Hardesty: Thank you, Captain. Did that expend the full amount of that subaward then?

Capt. Carrao: Yes, it did.

Chair Hardesty: Okay, thank you very much. Any questions for Capt. Carrao? Okay, let's move on then to Ms. Noble and Ms. Fralick from Washoe County DA's office. Ladies, if you wouldn't mind giving us an update on your subaward and the progress of your work.

Jennifer Noble: Thank you, Chair Hardesty. I want to mention at the outset here, that unfortunately Ms. Fralick is not available today, she's traveling. She would certainly like to be with the Commission. I'm going to try to cover what she would cover as best as I can.

Thanks to the subaward which we received in the later half of December, we hired Hunter Lenz, who started February 1st. She came to us from Ohio. She recently moved to the area, and she worked for the court system and was actually a jury commissioner for some time.

Since her February start date, Ms. Lenz has been working on our subaward objectives part-time while also completing her course work for her master's degree in criminal justice and homeland security. On May 1st, she graduated so we will have increased time to devote to the grant position from now until September.

As of May 9th, we have spent just under \$19,000 and we have approximately \$28,700 remaining. Because Ms. Lenz is now graduated and I as her supervisor will be returning from the legislature, 10-12 days, we will have more time to devote to this important work. And we do anticipate taking advantage of the full subaward between now and its September expiration.

The Commission may recall that our subaward request had three components. The first was training for AB 236, on AB 236 changes for attorneys and staff. The second was identifying needed changes to our case management system, including autogenerated documents related to AB 236. The third was

data tracking and analysis.

With regard to the first component, which was the training, we ultimately ended up needing to create a training for our DAs prior to Ms. Lenz coming on board, because of the July 1st effective date. With some substantial assistance from senior attorneys in our office, we were able to create a substantive training on AB 236 and make it remotely available to our attorneys. We have a bridge program that Washoe County has that's also been made available to law enforcement agencies and district attorneys offices throughout the state. We broke it up into four different modules, organized by area of law and I think it was quite useful to folks and other agencies in terms of wrapping their arms around the changes to the law.

In terms of Ms. Lenz's work so far, she's spent some significant time predictably familiarizing herself with Nevada's criminal statutes, pre-236, as well as the bill's legislative history and its significant changes to our criminal justice system. Understanding that information is of course critical to developing areas of inquiry and data points we want to capture. Additionally, she had to become familiar with our current criminal justice software, 'Justware' which will be integral to gathering data for analysis.

Some of the work that she has been engaging in, is development of materials to assist our deputies and staff with changes. Cheat sheets, etcetera, on category B felonies and how that has changed that type of stuff. With regard to our specialty courts, that's taken up a lot of her time. As the Commission is aware, AB 236 makes diversion an option for a wider range of offenders and our office has previously been tracking specialty court information and outcomes.

But Hunter discovered that that information is not only tracked outside our criminal justice software, but we had multiple team members entering offenses and data. She identified the information we were compiling with had a lot of inconsistencies in terms of how we identified certain crimes or charges. For example, attempted burglary might be entered as burglary (comma) attempted. Or burglary (parenthesis) attempted. Possession could be attempted possession, PCS (comma) attempted, or just PCS attempted. And of course, we are now broken down into subcategories with varying sentence ranges. And we were not yet consistent in terms of how we were specifying those subcategories when we were talking about specialty court outcomes and trends.

(Audio/video frozen for several seconds.) ... and identified some data points that might provide useful in the future and work with our IT department to add those categories to our criminal justice software. For example, numbers and types of technical violations, revocations, discharged to outcomes, etc.

It was also important that our secretarial staff understood the basics of these changes so that they were not looking for or reporting information in a vacuum. She met with our legal secretaries' supervisor and helped her develop training materials for our administrative staff related to that.

We've also been working on data challenges resulting from law enforcement agency changes from Uniform Crime Reporting System to the National Incidents Based Reporting System or NIBRS. At the last Commission meeting, I think Lt. Sulferino informed you all that there's a period of transition and UCR was limited in its ability to give an accurate picture of what was going on in terms of crime rates. That was the system in use prior to August of 2019. For example, it had under 30 offense categories and it only kept track of the most serious charge related to a call or event. NIBRS has about 70

categories and allows much more extensive tracking.

To help us understand how AB 236 is affecting crime in our communities, whether it's improving outcomes or crime rates, etc., she's working on alternative means of gathering accurate pre-2019 data by reaching out to individual law enforcement agencies because that's going to be helpful in identifying trends over time. Justice Hardesty, my understanding from the earlier discussion is that the Commission is interested in one, recidivism rates of inmates released during the pandemic. And two, identifying individuals who are arrested for violent crimes and reoffend soon after release on OR, or released on bail. Two inquiries, that's certainly we can work on with regard to the first area of inquiry related to folks who are offending or not reoffending soon after they're released.

As to the second part, we've identified some related metrics to track such as conditions of pre-trial release and any violations. We could try to expand that data, or to get more specific to the Covid time period. But the first part of that inquiry about inmate release, I'm not sure how we could go about identifying those offenders who are prosecuted by our offices, but we can certainly look into that.

It's become apparent over the past few months, that so much of what we need to be doing is to set ourselves up to collect accurate data that's going to lend itself to inquiries. We might be thinking, right now, as well as inquiries that are going to surface in the future. So, we're still in the stage of working on our internal nuts and bolts so that we can set our agency up for success in that regard.

After we determine all the changes to our data collection and processes, we're hopeful we can share that with DAs throughout the state to give them a roadmap to improve their data collection as well. That concludes the remarks I have right now, and I'm happy of course to answer any questions the Commission might have.

Chair Hardesty: Thank you, Ms. Noble, for the thorough review. First, let me extend my congratulations to Ms. Lenz for achieving her master's, that's no small undertaking. We congratulate her on that achievement. I appreciate your willingness to examine those other two data metrics. One of the takeaways I got from your presentation and your thorough description of the evaluation of data is exactly what the Sentencing Department's been putting up with for several months. I think you are replicating what they're experiences are as well, not only challenges associated with inputting data, and inconsistencies and I'm sure that has driven everybody crazy. But at the same time, making some uniform assessments based upon those changes.

I was interested in knowing whether or not you thought or what the DA's office was going to be able to do in retaining Ms. Lenz's services beyond September. Does the loss of the subaward cause the loss of her services and the work that your office is trying to accomplish here?

Ms. Noble: Thank you for the question, Chair Hardesty. Right now, I don't know the answer to that question. I'm not aware of a funding source that would be able to continue Ms. Lenz' work past September. But it's definitely something that would be valuable I think to our office. I'm not sure if we're going to be able to do that or not.

Chair Hardesty: That's certainly something we ought to put on our radar screen and see if we can evaluate that and see if there's some opportunities to maintain the momentum that you all have begun.

Are there any questions from Commission members for Ms. Noble? Alright, thank you very much for that update and if we could, then turn to Dr. Neighbors and ask her if she could provide us with an update on the subaward that was provided there.

Dr. Neighbors: We are up and running and extremely excited to say. Just to kind of review, our subaward was granted to us, it was about \$17,500, I believe, to implement a pilot program, which is the Start Now program. It is a nationally researched intervention manualized program that is used to address some of those criminogenic needs and thinking processes that were mentioned earlier in the meeting today. I'm pleased to say that we are focused on and aware of those concerns and hoping that we can present this pilot program that will show the same kind of results that have been achieved nationally, which is about a 30 percent reduction in recidivism with our clients, in the Division of Public and Behavioral Health.

This program is housed at Lake's Crossing Center and the idea is, that this process will intervene with recidivism and is necessary to implement in addition to psychiatric treatment that we provide, that you don't achieve that goal without these additional concerns.

We have implemented that, and we have hired to coordinate and run that program, Tom Durante, who is a very experienced LCSW, who actually was a former agency director at Lake's Crossing. He has begun training. The agency is providing some additional staff to work with this program. So, there will be two additional social workers to work with the clients. The plan is that there will be three cohorts of about 32 clients. That would be four groups of eight clients who receive the intervention. So, we'll have, not huge numbers, but we'll have about 100 subjects by the end of the time that we complete this project.

Also, have trained staff to continue it beyond the grant, hopefully. We have purchased the equipment we felt that we had identified as necessary to do this program in an efficient way. A computer, tablets for the clients, as well as the manualized materials that will be utilized by the clients who are involved in the program.

We have started with that. We have not completed a cohort yet, but it is up and running and it seems to be going very well. We have expended probably about \$2,500 of the \$17,000 that we were granted. And anticipate that that will be expended by the end of September. We look forward to providing the data from our program to you and to the grantor. That has already begun. We'll be doing monthly reports forward on how the program is progressing. In conjunction actually, too, we are doing some collection of data about super-utilizers through the system that cycled through the hospitals, prison and jail. And we are looking at how these types of interventions might help to assist with intervening in that cycle.

I'm happy to answer any questions about where we are with that program and the goals. We appreciate your allowing us the opportunity to have this program in our system.

Chair Hardesty: Thank you, Dr. Neighbors. Are there any questions for Dr. Neighbors on her presentation? Alright, seeing none, I'd like to extend my thanks and appreciation to all of the presenters and the update of the use of their subawards. Probably not for the September meeting, but the meeting following that, I think it would be useful for the Commission to get an overview of the outcomes from

each of those who received subawards. So, maybe in November or thereabouts, whenever that meeting is, we can get updates with respect to the outcomes.

Some of those presentations will be a lot shorter than others. I think we know where we are in the Sentencing Policy Department. But I'm intrigued and I'm sure other Commission members are with respect to the work product that Dr. Neighbors mentioned. Ms. Noble mentioned, the NDOC folks have identified and obviously as well as POST. All of those would be very informative going forward. If there's any issues regarding invoicing of the remaining balance, please contact Abigail Strait at CJI, she'll assist with respect to those invoicing needs if people have them. Or, with Victoria, she can help make those arrangements.

With that, let's open up agenda item 8.

8. Presentation on the Project to Evaluate the Impact of the Covid-19 Pandemic on Nevada's Criminal Justice System.

Chair Hardesty: We're making great progress here today and I know other people have legislative demands and duties so I want to try to get the meeting completed if we could, so we'll trudge on. As you all recall from our last Commission meeting, I shared with you that I had been contacted by CJI and BJA, regarding a potential opportunity. Quite frankly I think unique to Nevada, that would give us an analysis and an understanding of the short and long-term impact of Covid-19 on Nevada's Criminal Justice System, as well as circling back on the assumptions that were used, and in studying the assumptions that were used to help develop AB 236.

We were fortunate enough to secure the support of the BJA to pursue this matter and I have asked the representatives of the Crime and Justice Institute to provide us with an update and outline of how they intend to proceed and what they've been doing since this authorization was provided. Let me introduce Mr. Weld, and for those of us who sat through the various processes that developed AB 236, Maura McNamara, it's always good to have her back and join us. And they are joined by Dr. Molly Buchanan as well, from CJI. Welcome to all of you and I'll invite you to begin with your presentation.

Mr. Quentin Weld: Thank you, Chair Hardesty, Vice-Chair Callaway and Director Gonzalez. We wish we were there in Carson City to present to the full Commission. But we're nonetheless honored to be here today presenting to this body about this new opportunity to study the impact of Covid-19 on Nevada's justice system. I'm going to go through about 30 slides today and go off camera for those probably back at the end for as many questions as the Commission has for our team.

I'm going to start with an outline of the information I intend to present today. I think it's important to say right off the bat you're not going to hear any results or findings today. This is intended as an overview to introduce the project to the Sentencing Commission. There will be a few data slides at the end, but they're based on publicly available on data that I think this body has

heard in certain forms before.

I'm going to start by giving some background on our organization and discuss the origins of this effort. Then I'll give an overview of the planned project work, which will include both a quantitative and qualitative component. We'll give some examples of policies from around the U.S. that arose from the unforeseen and unprecedented event of the Covid-19 pandemic. As I mentioned, I'll give some limited preliminary data from Nevada. And we'll finally discuss the project timeline in next steps. At the end we'll take questions.

First a little bit on information about our organization and the work that we do. We are a non-profit, non-partisan that works with states and localities across the U.S. We use data analysis to support these jurisdictions as they pursue policies to reduce recidivism, safely reduce unneeded costs and enhance public safety.

CJI has done and is still doing other work in Nevada as has been mentioned in today's meeting. We worked for the ACAJ in 2018 to staff that body as it conducted a comprehensive study of the state's prison population. The ACAJ then recommended responsive policy options that resulted in the passage of AB 236 in 2019.

Since 2019, a team from CJI has been working with agencies across the state to implement the changes contained in AB 236. And my colleagues from that team have presented to this Commission in the past. I think it's important to note that this current project is distinct from that implementation work. In that this project is primarily focused on the impact of the pandemic on Nevada's criminal justice system.

Now, getting in a little to the planned project work and an overview of that. State leadership has asked CJI to evaluate the general impact of the pandemic on Nevada's criminal justice system and its specific impact on the prison population. This comes at no cost to the state. It's funded by public private partnership between the Bureau of Justice Assistance and the Pew Charitable Trusts.

The project has three stated goals. The first and primary goal is to better understand the impact of the pandemic on the state's prison populations specifically in criminal justice system generally. The second is to identify any gaps and opportunities for post-pandemic policies and practices. The third is to revise prison population projections.

This is an overview of the project phases. The first two the data analysis and system assessment we'll have them simultaneously. We'll get into each of those in a bit more detail in later slides. Along with the data analysis the system assessment, we will attempt to create revised projections for the prison population based on any changes that we see in the data we analyzed. Then based on results from the previous work, we'll identify any policy opportunities that may exist moving forward. In November, I will deliver a report to state leaders and to this body that includes the information from all these phases.

A little more detail on the data analysis work. If there's any impact of the pandemic, we'll be looking at raw data from key agencies in the state. This includes state level agencies, like the DOC, the AOC, the NPP, and the records division, and local entities like law enforcement and local courts.

During this work we'll be looking for trends in both aggregate and individual level data. The metrics may include but aren't limited to, admissions, lengths of stay, releases, populations, snapshots, demographics, offense types, revocations and case processing time.

An overview now, the system assessment part, which will be happening at the same time. In addition to the data analysis, we'll be doing a deep dive into key areas to understand what policies and practices may have changed during the pandemic, what stayed the same, and what changes are likely to persist. We've already heard from many folks around the state, including Commissioners of the Sentencing Commission about the incredible flexibility and innovation that pretty much every criminal justice agency in Nevada has had to implement for response to the pandemic. And we'll be doing much more of that.

So, some of the areas this assessment will focus on include, policing, prosecution, core processes and sentencing, community supervision and prison releases. The methodology from the system assessment will include a review of state laws, executive and administrative orders, written agency policies, appellate cases and court rules, as these are the primary mechanisms in which different policies were enacted or revised. In addition to the review of written material, as I mentioned we will be conducting interviews to become aware of changed practices that weren't necessarily captured in writing. And then understand how things worked on the ground during last year and into this year.

Finally, we plan to conduct surveys and focus groups and observe court where possible to get an even broader picture. Now that I've given a little bit of description of the intended project work, we wanted to just identify a couple of national trends that have been seen really across the country as to how policies have been affected by the Covid-19 pandemic.

The first example of where these policies changed is law enforcement. Obviously was greatly impacted. The pandemic necessitated in some places a reduction of in person contact in certain situations. Which coupled with high-stat sick rates, saw many departments trend their physical footprint out of necessity. Some states intentionally reduced the frequency of community contact and protect the outcome safety of their officers in the community. Others increased their use of citations and lower arrests. And many states limited enforcement of certain types of conduct, such as traffic, licensing offenses for example.

Another area which of course changed greatly was core process. If everyone here is aware, the fundamental change across the country and in Nevada was a massive transition away from in-person hearings to virtual court and remote hearings. Another big one here, is many

jurisdictions enacted policies to limit pre-trial detention for certain offenses. Including strong new presumptions for some low-level crimes.

Finally, many states saw significant inevitable delays in case dispositions arising from court closures, mask continuances or needing to limit certain types of hearings. For example, jury trials.

Existing incarcerated populations were impacted. We heard a lot about this from Director Daniels earlier. Here are some additional policies. Some examples here include releasing vulnerable people appropriate for release by medical or geriatric parole mechanisms. Some states issued commutation orders for those serving for certain classes of non-violent offenses. Another was the release of individuals who happen to be particularly close to their parole and eligibility date.

To create the needed separation, some states were creative and housed individuals in previously closed or vacant facilities for certain purposes. Finally, many departments stopped all transfers of individuals.

The last area I'll discuss, where a lot of policy change happened, was of course community supervision. There was a sudden need to limit in-person contact, which led to changes in the way parolees and probationers are supervised. This included changes like the adoption of remote reporting tools, and the closure of many community-based supports.

Those are an example of some of the policy impacts that the pandemic had. The last section here is just a couple of data slides indicating what we know so far about what happened in the last calendar year. We'll look at it in Nevada.

First, the prison population is declining. Which mirrors what's happening nationwide. And that is prison population has dropped 18 percent, from 2019 through 2021. It isn't pictured on this slide, but we know that with regard to Nevada, this reduction has been driven primarily by a decline in admissions and increase in releases.

The next slide I think provides a good idea of why this project is intended to include a revision of prison population projections. The green line here is the projected NDOC population, and the blue line is the actual numbers reported by the NDOC during the past two years. Which as you can see is considerably lower and gets lower as time goes on. Projections always carry some degree of uncertainty, but as you can see from this graph, the unprecedented affects of the pandemic throughout projections, more than normal. Completely understandable.

One of the goals of this project is to revise those projections. So, the state and this body can have a better idea what the population will look like during the coming years. When looking at prison data, particularly in the context of admissions, it's critical to also have an understanding, of general current crime trends. Here is a quick and by no means exhaustive snapshot of

recent data there.

On this slide we can see that Nevada's crime rates have generally dropped during the pandemic, which mirrors the national trend during the same period. It's worth noting that this slide on displays UCR-reported data of property and violent crime. And drug crime is not displayed on this slide. The top three lines here show the overall declines in LVMPD, Nevada state, and national property crime rates. The bottom three lines represent violent crime in the same three jurisdictions.

In the U.S. overall, as shown by that lowest blue line, it's hard to see, but violent crime increased nationally. Data that's been reported by the LVMPD indicates that violent crime overall went down in Las Vegas, or in their jurisdiction. But homicides and aggravated assaults went up. As 2020 patterns continue to reveal themselves, they'll require close attention as numbers are finalized and this data is made available.

The last data slide is about parole population. And Covid-19 has not only impacted prison population but also community supervision populations. And when looking at averages the average parole population in 2020 grew 17 percent since 2019. This data is from the NDOC weekly fact sheets. We don't necessarily yet know, what caused this bump. This is just an example of an early finding that we're going to try to find out more about.

Finally, I want to conclude with the project timeline and discuss next steps, this Commission can expect. Here's the overall timeline of our project. As you can see the main deliverable is a report that will be submitted in November of 2021. We anticipate presenting to the Sentencing Commission, at least a few times before that date.

Next steps, we'll be reaching out to many of you as part of the data analysis and system assessment. We are already in touch with many of the agencies that we get to expect to get data from. The success of this project I do think will depend on the participation and referrals of as many practitioners and experts as possible, including those on this body. We really look forward to speaking with as many of you as we can.

In the final report we'll include both the data analysis and the system assessment and any projections or policy recommendations that will be published in November. These are our contacts. I believe you have our information in this presentation that was sent to you. Please reach really whenever you want to discuss anything about this project. I will stop there for questions and can return to any slides as needed as they come up.

Chair Hardesty: Thank you, Mr. Weld, I appreciate your summary of the activities over the next several months. Are there any questions from Commissioners with regard to this effort? I'm not sure if hands are raised or not. You'll need to stop sharing the slides, Mr. Weld, then we'll get a full view of the members of the Commission. Mr. Hicks, you had your hand up. Go ahead, sir.

Mr. Hicks: Thank you, Justice Hardesty. Mr. Weld, I just have one question and we kind of hit on it when you and I already spoke. In addition to the dramatic impact that we all understand of the pandemic on the criminal justice system, there were two major changes in our criminal justice system in Nevada, that I also think or hope, that you guys are able to balance with your examination. That is as you guys are well familiar with AB 236, which one of the expected impacts of that is the decrease in the prison population. We all know that from our prior work on it. But that actually happened to come into effect in Nevada right in the middle of the pandemic on July 1st of 2020. Starting on that date, that significant shift in our criminal justice system, which reclassified certain felonies, made probation more likely in many cases, made specialty courts more likely in many cases and in turn, prison population less likely for an increase. I feel like that really needs to be balanced in this examination. I don't know I'm sure it's very difficult to do, but you guys are great at what you do, I just wanted to offer that up.

The other significant in our criminal justice system, was a decision called Valdez-Jimenez, which significantly changed the way bail is addressed in the state of Nevada and speaking for at least in Washoe County, we had seen an increase of failure to appears for court hearings and reoffending due to some release decisions that were made, that are different from how they were done before. So that came into effect in April of 2020. When you see those, at least what we're encountering here, you see those failure to appears increase or re-offense increase. It tends to slow the system down a little bit, and I can only speak of this general experience here, that may be leading to a slower admission into prison, if that is happening.

I just encourage you all to look closely at those, because those are significant changes without Covid as you're doing this analysis. Thank you.

Mr. Weld: Thank you, DA Hicks. I think it's a really crucial point. As you mentioned there are a couple things that happened in 2020 that would have even absent the pandemic, have a major effect on the prison population and other parts of this system. And you reference AB 236, and also the Valdez-Jimenez decision and the practices that follow that decision. We certainly will be taking those into account. Looking at how those early pre-trial hearings as they started to happen, in a pandemic-affected landscape.

And definitely will, to the best of our abilities, take both of those changes into account and also, keep an eye on bills that are currently pending in the Nevada legislature, which may have additional impacts on those things that you mentioned. Thanks for that comment. I think it's really important.

Mr. Hicks: Thank you.

Chair Hardesty: If I could add to that discussion. It is abundantly clear that the district courts and limited jurisdiction courts, are back-logged severely. Jury trials were minimal throughout 2020 and even the first part of 2019. Which impacted adversely decisions that might have led

to an increase in the prison population. Or for that matter, parole and probation supervision. Because cases would have been adjudicated. It also slowed dramatically, the plea bargain process, so that there weren't dispositions and a number of cases I believe were detained or held in the justice courts and didn't get to the district courts.

I suspect that that's a dynamic that would contribute to the slowing of the process of the resolution of criminal cases. I don't know that the bail or the change in the way detention decisions are made is yes, is a factor, but not being able to get those cases to court is a significant factor. As I reported to the legislature in March of this year, as of March 11th, in Clark County alone, there were over 1,400 criminal cases, felony cases set for trial that couldn't be tried.

Two-hundred and fifty-two capital cases set for trial couldn't be tried. And over 180 defendants who invoked their right to trial within 60 days that couldn't get to court. Those numbers are not nearly as big in Washoe as they are in Clark, but they're still out of normal by a significant amount. That will begin to clear out. Unfortunately, it's going to take, I think, a fair amount of time for the court system to get its court rooms in a position and have venues where they can entertain jury trials.

Beginning June 14th, for example, in Clark County, they will begin calling venires for jury trials in criminal cases every hour and start assigning those cases out. But there are challenges throughout the state to be able to get those jury trials commenced. In Washoe County, a building that is serviced by two elevators, one of those elevators is going to be shut down for the next six or seven months. So, there are factors that are impacting the delay in jury trials that have nothing whatsoever to do with the pandemic but have a lot to do with the structures that these venues are occupying.

There's a lot of factors that are slowing the criminal justice system down and are slowing the input of individuals coming into both parole and probation for supervision, as well as incarceration in the Nevada Department of Corrections. Who would have thought that we would begin working on elevators as we transition out of the pandemic and slow even down further. I think that problem, by the way exists in Clark County's Regional Justice Center as well. There's lots of factors that implicate this and I'm sure that CJI will be able to footnote their report with non-pandemic related delays in the criminal justice system as they work forward.

Are there any other questions or comments by Commissioners for the team from CJI? Seeing none, thank you Mr. Weld, Ms. McNamara, always great to see you again. And Dr. Buchanan, thank you for being present today. We appreciate your effort, and we are sincerely appreciative of BJA and the Pew Charitable Trust for making available your services once again for our work going forward.

9. Discussion of Potential Topics and Dates for Future Meetings

Chair Hardesty: Let's briefly discuss future meetings. The next meeting under agenda item 9, for the Commission will be September 3rd. As the Director noted, we will have to have reappointments from appointing authorities, and they'll be probably some of the Commission members will be returning. Other Commission members will be new. On the September 3rd meeting as well, will be an agenda item to select the Chair of the Commission, the Chair serves for a two-year period. The Commission will need to select the Chair on September 3rd as well.

With that said, let's turn now to public comment under item number 10.

10. Public Comment

Chair Hardesty: I'll open the second period of public comment. As we did in the first period, those who wish to testify may do so by telephone. Unfortunately, we limit public comment to two minutes. For any of you who haven't been able to provide as much in the way of public comment as you'd like to do so, you are invited and welcome to offer additional testimony in writing to the Department of Sentencing Policy, at SentencingPolicy@ndsp.nv.gov. Ms. Buckley, if you'd like to open up the second period of public comment.

Ms. Buckley: Thank you, Chair Hardesty. Members of the public who would like to testify by phone, press star nine to raise your hand. When it is your turn to speak, please slowly state and spell your first and last name. Caller with ID number 405, please unmute yourself and slowly state and spell your name for the record. Again, caller with the last three digits 405, please unmute yourself, slowly state and spell your name for the record.

Sam Gordon: My name is Sam Gordon. I have two quick comments. The first one is for Ms. Welborn with the ACLU. I greatly appreciate you representing the ACLU today in this meeting and your participation in it. In reviewing the public comments, I read those online. I noticed that about 40 percent concerned AB 236. Specifically, the retroactivity of it. This applied to the inmates of various backgrounds and convictions and their families, and I ask you Ms. Welborn that you take these public comments back to ACLU and view them with this potential action in mind.

In response to the officer's request for information and I do apologize, I did not catch his name, in an experimental study done by Adkins and Derk, in over half of their subjects acquiesce to a plea bargain even when known to be innocent. At this time, over 96 percent of the U.S. population takes the plea bargain. I would like for the research he requested to include defendants who retained a statement of innocence even though they acquiesced to a plea bargain due to physical, mental and/or financial exhaustion. Or a fear of a much harsher sentence when told they would be found guilty even when they retained a statement of innocence. Thank you for listening.

Chair Hardesty: Okay, thank you Ms. Buckley. With that, we will proceed to adjournment.

11. Adjournment

Chair Hardesty: Is there a motion to adjourn the meeting?

Ms. Welborn: Justice Hardesty, I would like to make a quick comment to the caller, if they're still on the line, or to Ms. Gonzalez. If I could get the contact information for that caller, if at all possible, I would appreciate that so we can follow up on our intake process. Thank you.

Chair Hardesty: Alright, thank you Ms. Welborn. I believe Mr. McCormick made a motion to adjourn. Is there a second? Mr. Callaway has done so as well. All those in favor please raise your hand if you would please. Is there anyone who is opposed? Unanimous to adjourn. Thanks to the staff again, for an outstanding meeting and for all the work that went into the preparation of today's meeting. We really appreciate it. We are adjourned, thank you.

Meeting ended at 11:59 a.m.

DRAFT