

**MINUTES OF THE 2019-2020 INTERIM
ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE**

September 30, 2020

The meeting of the Advisory Commission on the Administration of Justice was called to order by Chair Nguyen at 1:02 p.m. Pursuant to Sections 2 to 9, inclusive, of chapter 2, Statutes of Nevada 2020, 32nd Special Session, at pages 9-11, the meeting took place via webconference and did not have a physical location.

All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Rochelle Nguyen, Assembly District No. 10; Chair
Senator Melanie Scheible, Senatorial District No. 9; Vice Chair
Senator Keith Pickard, Senatorial District No. 20
Assemblywoman Lisa Krasner, Assembly District No. 26
Judge Sam Bateman, Henderson Justice Court
Kendra Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Judge Jacqueline Bluth, Eighth Judicial District Court
Chuck Callaway, Police Director, Las Vegas Metropolitan Police Department
Anne Carpenter, Chief, Division of Parole and Probation
Charles Daniels, Director, Nevada Department of Corrections
Christopher DeRicco, Chairman, Board of Parole Commissioners
Aaron Ford, Attorney General
Justice James Hardesty, Nevada Supreme Court
Mark Jackson, Douglas County District Attorney
Mindy McKay, Division Administrator, Records, Communications and Compliance
Division
Lieutenant Corey Solferino, Washoe County Sheriff's Office
Holly Welborn, Policy Director, ACLU of Nevada, Inmate Advocate

COMMITTEE MEMBERS EXCUSED:

Paola Armeni, Representative, State Bar of Nevada

STAFF MEMBERS:

Nicolas Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau
Kathleen Norris, Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau
Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau
Jordan Haas, Secretary, Legal Division, Legislative Counsel Bureau

Broadcast and Production Services Staff, Administrative Division, Legislative Counsel
Bureau

OTHERS PRESENT:

Peggy Welk
Sarah Hawkins, President, Nevada Attorneys for Criminal Justice
Amanda Candelaria
Belle
Martha Sharp
Mary Alexander
Cory Pike
Stephanie Blaire
Elizabeth
Anthony
Nicole Tate
Lilith Baran
Charrise Lothamer
Tonja Brown
Erika Minaberry
Unidentified Caller
Val
Aislinn Lowry
Pamela Pappas
Jodi Hocking, Return Strong Families United for Justice of the Incarcerated
Nick Shepack, Policy Fellow, ACLU of Nevada
Jenifer Henry
Adrian Lowry
Atteberry
Annemarie Grant
Anthony Pestello
Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney
General
Theresa Harr, Special Assistant Attorney General, Office of the Attorney General
Ryan Osborn, Lieutenant, Division of Parole and Probation
Aaron Evans, Lieutenant, Division of Parole and Probation
John Piro, Chief Deputy Public Defender, Clark County Public Defender's Office
John Jones, Chief Deputy District Attorney, Clark County District Attorney's Office
Brian Williams, Deputy Director of Programs, Nevada Department of Corrections
Leonard Engel, Director of Policy and Campaigns, Crime and Justice Institute
Julie Ornellas, NCJIS Modernization Program Administrator, Records, Communications
and Compliance Division

Assemblywoman Rochelle Nguyen (Assembly District No. 10; Chair):

I'd like to call this meeting to order. I appreciate everyone being here promptly and on time, and I hope to have this be a fairly efficient and a shorter meeting if we can make it that way. What I plan on doing, because we're all on different platforms and we don't have a way to communicate pretty effectively, at the end of any of the presentations or any things, I will do a roll call to see if anyone has any follow-up questions for any of the presenters or they have any questions about things that are going on, and so I will just look on the screen. If you are here on the phone and you can do that, that would be great as well. Before I have roll call taken, I don't know if I saw our newest member. Is Paola Armeni on the phone yet? I know that she was recently appointed as a representative of the State Bar of Nevada. She twice previously served on the body, and so we definitely welcome her expertise from the State Bar. I don't see her on here, but if she does jump on or she is watching and she's not able to participate, I'd let you know that.

With a quorum present, we'll get started on this. Before we get started, I'm going to start with public testimony. Under this item, items may be presented by phone or by written comment. Because of time considerations, each caller offering testimony during this period for public comment will be limited to not more than two minutes. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying, and written comments may be submitted by email at jordan.haas@lcb.state.nv.us or by facsimile at (775) 684-6761 or via mail at 401 S. Carson Street, Carson City, NV 89701 before, during or after the meeting. To dial in to provide testimony during this period of public comment at the meeting and any time after 12:30 p.m. today by dialing (669) 900-6866, and when prompted for your meeting ID number please enter the meeting ID number, which is 995 6194 7004, and press # when prompted. This is all listed also online for people if they have any issues.

I will just note that prior—at least by the start of this meeting, we have received approximately 100 or so inmate letters, most of them in specific regard to restitution payments and conflicts with Marsy's Law ([Agenda Item III A](#)). They are being uploaded as we speak to the public so there will be access. I know the staff is working really hard to try to get those all up, so hopefully they will be all up there, and if they are, I would encourage all the members to look at anything that was submitted in writing that's not a part of this.

With that being said, I'd ask Broadcast to please unmute the first caller.

Peggy Welk:

Thank you. I'd like to thank the Committee for allowing this time to hear our concerns regarding the garnishing of inmates' accounts for restitution. I'm from Oakley, California. I have a son located at Lovelock Correctional Center, Lovelock, Nevada. I am writing this letter under much distress due to the recent decision made to remove high percentages

of funds from my son's account. It is unreasonable to believe that this decision does not victimize families. This monetary gift we give to our loved ones is not for you to take. It comes from a caring, heartbroken, self-sacrificing, 65-year-old woman named mom, and there are many more moms and dads battling this decision. I understand the State of Nevada is plagued with many issues at this time, much like the whole nation. Helping our loved ones will help in the rehabilitation process and achieve a positive morale within the prison system. I understand that programs are limited and a long list of inmates have to wait to attend required groups, leaving more time for prisoners to engage in negative activity. I understand there are also victims that have not received restitution for crimes against them. I am not oblivious to their pain. However, restitution belongs to the responsibility of the inmate when he is released and begins the process of restoring what he has done to others. This is why the money I send to my son and to his college is my investment to give this child of mine and a new hope and direction in his life. My son is not a good student, a drop out of junior high, raised by an alcoholic dad, and survived much abuse until I got him at 14 years old and he was a mess. He had no self-esteem and never found out what his skills and talents were. Prison has made him come to himself and look in the mirror more than once. At this time, my son has been recognized as an honor student for 2 years, graduating summa cum laude and has aspirations to help other prisoners become successful on the outside. When you take funds from me to pay court fees, restitution, etc., you are equally stealing my future I've invested in my son.

The food at prison is not good. Some of the food is old, most meals do not meet the nutritional guidelines, and nutrition and studying go hand in hand. I sent him \$50 for soap and other essentials a few days ago. He received \$10. I have refrained from sending him any money for fear it would always be drained. I'm hoping for a change in this policy. I understand prison institutions are facing difficult times to accommodate inmates by helping them with educational classes and groups and other programs. That is why I paid over—

Chair Nguyen:

Ma'am, can I ask you to wrap it up? You're over two minutes, and if you can submit anything additionally in writing we would take that as well.

Ms. Welk:

Yes, I'm just asking that if you believe in that and believe in our inmates that we're helping them that you would consider dropping this law. Thank you.

Sarah Hawkins (President, Nevada Attorneys for Criminal Justice):

I am here to speak against a newly enacted policy in the Nevada Department of Corrections (NDOC) that garnishes up to 80 percent of inmate accounts. I think primarily the problem here is that the proposed justification for the policy change is Marsy's Law, but Marsy's Law is in place to protect victims and to ensure that the person who commits

an act against them is responsible for that act and makes the victim whole. This garnishment policy penalizes law-abiding Nevada families. Families and loved ones should not pay for the actions of those who committed a crime, and it's not wrong for Nevada families to support those who are in custody. People who are in prison now will not be in prison in a matter of years, sometimes a matter of months. We want these folks to maintain connections to their families, to their communities, to incentivize good behavior. Suffering that relationship alienates inmates from the community and harms Nevada. We should not be putting taxes on the love and care of Nevada families. These funds are necessary as indicated before to meet nutritional guidelines and basic health and sanitary needs. We are looking for an immediate solution to this problem. NACJ (Nevada Attorneys for Criminal Justice) will be working with the ACLU (American Civil Liberties Union) and asking for an immediate reaction to this improper and unwarranted policy. The ultimate goal, the ultimate solution, is going to be a cap on this policy. That is the only fair way to make sure that victims are made whole with restitution and inmates can accept what will be taken from them.

Chair Nguyen:

Ms. Hawkins, can I ask you to wrap it up? You are over your two minutes but you can submit your concerns also in writing as well.

Ms. Hawkins:

I absolutely will. Basically, all I am saying is we need an immediate solution. This is an unjustified policy that penalizes families and we look forward to working on this moving forward.

Amanda Candelaria:

I'm here regarding the recent deductions being taken from the inmate accounts. My boyfriend has been incarcerated for 15 years after being wrongfully convicted. He is currently at Northern Nevada Correctional Center (NNCC) awaiting another appeal. His mother and I are on fixed income which is another strain just due to COVID, but we do what we can to send him money to get basic necessities such as toothpaste, soap, shampoo and healthier food. With the 80 percent reduction being taken from the money we send, it simply does not leave him enough to get his basic needs taken care of and we are not able to cover the cost. I'm asking that you reevaluate this decision on the deduction amount set by the Director of Prisons and immediately stop allowing NDOC to raid inmate accounts until a reasonable solution can be found. Thank you for your time.

Belle:

Good afternoon, my name is Belle and I am calling in due to the fact that my husband has been affected by this garnishment before and as well during this pandemic. I have been struggling to make ends meet. I have children and my husband as well to support. Taking

the 80 percent of all income I send to my husband is not only going to hurt him when it comes to food and hygiene, but it's also going to hurt me and my children. If I want to send my husband—well, if I would like my husband to receive the \$100 a month I normally send when I can, technically I would have to send my husband \$500. I don't have \$500 to send to my husband on a monthly basis as well as take care of my health, because I do have health issues, and take care of my children and help pay for my oldest son's college tuition as well. He is currently taking college courses as well he's in high school. I am asking if you could please find it in your heart and to be empathetic not only to my hardships but everyone else's who has and will be impacted by this Marsy's Law. If you could please reevaluate the deduction set by the Director of Prisons and immediately stop allowing NDOC to raid inmate accounts until a reasonable solution can be found, I would truly appreciate that. I know my children will as well and every single other person that's been impacted by this. Thank you for your time.

Martha Sharp:

I will be reading a letter from an inmate. "To Whom It May Concern, I am an inmate incarcerated at Florence McClure Women's Correction Center and I recently was getting deductions from my trust account and I was shocked that they are taking 80 percent to 100 percent of my incoming funds to provide for my means. While incarcerated where I am, the facility provides soap with lye in it that gives us women female problems, no deodorant, no lotion, a razor, toothpaste, a small tube, a toothbrush once a month and a small 20-ounce bottle of two-in-one shampoo for a week. That does not help us with our hygiene needs. The money that we receive from our family and loved ones is truly a blessing. I have no problem with them taking some money, but not all of the money. I would like you to reconsider the amount taken. Instead, perhaps a lower amount. Under the law I understand that you are allowed to take whatever you decide to take. Thank you for your help with this matter. Sincerely, Inmate, Florence McClure." Thank you.

Mary Alexander:

I am going to read a letter on behalf of an inmate who is presently incarcerated at High Desert State Prison. "To Whom It May Concern, my name is Donald and I am an inmate housed within NDOC and have been for the past 30 years. The recent implementation of 80 percent deductions for restitution plus the added 10 percent for savings is going to cause people to become destitute. I currently am still waiting to be paid and see how much I will be left with. I have seen people getting paid and are only left with a dollar and maybe some change. That is not even enough to buy a bar of soap or deodorant. Myself and the other inmates fully agree with paying our restitution, but not at a rate of 80 or 90 percent. Is it possible that the percentage of deductions can be reduced? How about room and board? Doesn't the NDOC already receive federal funds to house and feed us? Why are we paying 24 percent for room and board? In closing, I pray that something can be done to fix this raiding of inmate accounts and the burden it places on our families who is having their money taken when they gift it to us. Thank you for your time, effort and consideration of my letter. Sincerely, Donald." Thank you.

Cory Pike:

I'm calling and reading a letter on behalf of an inmate named Tyrell, and this is what he wrote: "The time that's spent confined by barb wired fences is the worst. A fit of despair has begun to overwhelm my thoughts. At the divulgence of getting deductions set in place that will subtract away from the scanty amount of funds that I get every so often. It's heart wrenching to say the least. If this new order is set in to stand, it will handicap me completely. The hygiene, food and clothing that the prison provides isn't adequate or sustaining. It is an absolute struggle to survive within these walls. It's either you don't have financial support, the amount of funds that you are able to obtain is meager, most jobs don't have a pay number, or even there aren't enough paying jobs for everyone. It isn't enough to survive as it is already. This order will completely cripple us. The funds that I obtain are used for more than just hygiene and food. I save my funds and use them to copyright books that I've written, to publish my books and to pay for college courses. Being that there aren't any grants set in place and the NDOC doesn't provide higher education for high school graduates, if this order is set into stature there is no way for me to survive or no way for me to further my education and pursue my career goals as a writer. I'm asking that you stop and consider the impact of this as we get ready to return back into society. This isn't just about restitution but also about creating better societies when we return to them, and if you create situations that we're unable to survive we won't be good citizens when we come back. Please consider going back to the way that this was and finding another way to do restitution."

Stephanie Blaire:

I'm calling from Albany, New York and I'm going to be reading a letter on behalf of an inmate named Phillip in Lovelock Correctional Center. "To Who It May Concern, I'm writing this letter to express the cruel and unusual nature of the 80 percent deduction instituted by the Director in the wake of passing Marsy's Law. I will use the term cruel to this fact: despite being in prison we are still human beings and thus allowed basic dignity and certain rights. To take 80 percent of someone's earnings as well as whatever someone sends them says to that person you are less than nothing and we can take from you whatever we choose. Obviously, this is not legal or acceptable in any other situation. Under no circumstances can you call it fair as we are already punished for the crime. Restitution is not technically a punishment but is an act of repaying, restoring or compensating. Here it is clearly being used as further punishment. If not intentionally, clearly that is the result. This does not even begin to speak to the unfairness of these deductions and what that says or does psychologically to the inmate. It's wrong to take from others yet we have no problem taking 80 percent of everything we get. How can this not generate animosity and discontent? How can it not interfere in the rehabilitation process? Then there is the unusual side of cruel and unusual. These deductions are clearly unusual simply because they are happening nowhere else. It would not be acceptable anywhere else. I think that speaks for itself. Then there is the fact that you are taking from the inmate. You are taking from the inmate's family. If I tell my mother I need a deodorant and that deodorant is \$2.50, I have to get \$12. My mother has to send me

\$12 just so I can buy a deodorant. How do you justify that when it comes to taxpaying citizens and law-abiding citizens who are people just trying to support the person they love?"

Chair Nguyen:

Ma'am, can I ask you to wrap up? You are at two minutes and you can submit the letter in writing if you haven't done so already.

Ms. Blaire:

Yes, that's fine. Let's see, so he'd ask everyone involved to please reconsider this decision and reduce these deductions. Thank you for your time.

Chair Nguyen:

If I can just remind the callers that are currently in the queue, you always have the ability—I know people are reading letters. If you could just be mindful of the two minutes and know that you can also submit that in writing as well. Thank you.

Elizabeth:

My name is Elizabeth and I am reading a letter written by James, an inmate at Warm Springs Correctional Center, Carson City, Nevada. "To Whom It May Concern, I would like to take this time to introduce myself to you. I am James, African-American male, 61 years old. In November 7, 2005 I was playing basketball in Ely State Prison gym and accidentally broke my leg. I was kept in infirmary overnight and given ice for the swelling and shots for the pain. The next day I was rushed to the local Ely hospital where Doctor Mark had to perform an emergency surgery to save my leg/life. Because of the delay and negligence, I almost lost my life/leg. Here is the most important. I am being continually charged restitution for my injury which occurred during voluntary recreational activities exercise 57.10692. Now I am living indigent because of the restitution reimbursement 53.110.59. Now I do have disfigured left leg. I now have scars, permanent effect result of my injury still being charged for the medical expenses. Because I am a layman of the law, I cannot litigate medical malpractice suit without representative of the client to act on advice when pursuant here on my behalf. I pray you can assist me. Thank you very much. Sincerely, James."

Anthony:

My name is Anthony and before this pandemic my mom has been struggling to make ends meet because not only does she have to send \$100—not have to send, but just chooses to send \$100 monthly to my dad. She also has to pay for my college classes that I'm taking, and taking 80 percent of all income that she sends my dad is going to be hard on all of us. Taking 80 percent of the deposits will cause us to strain more financially and

put stress on everybody. I ask that you please understand us and reevaluate the deductions that were sent by the Director of Prisons and immediately stop allowing NDOC to raid accounts until a reasonable situation can be found.” Thank you for your time.

Nicole Tate:

I’m calling regarding the inmate deductions. Currently, I have a loved one incarcerated with the Department of Corrections. On September 1, 2020, the Nevada Department of Corrections instituted the new deduction system with regards to inmate funds resulting in a drastic change in the amount of money allowed to be taken from inmate trust and savings accounts, wages, as well as monies deposited by inmate family members. This new change allowing 80 to 100 percent deduction from all inmate fund sources is simply egregious, and let’s face it, the majority of inmate funds are from their hard-working family members. Even if the inmate is offered employment, this only pays pennies a day. These families work hard to not only support themselves and their lives at home but also provide for their loved ones of whom who are incarcerated. This money is not provided so that their loved ones can live in the lap of luxury. In fact, it is the opposite. It is done to assist in providing food and hygiene products as the amount that is provided by NDOC is not adequate nor sustainable by the average person. To put it simply, this change is just not fair. Information was not even announced to the inmate population nor their families regarding these changes until days after it had already taken effect. Money had already been taken from the deposits and trust accounts, leaving those inside with many questions. Marsy’s Law is being used as a positive agent in the sequence of events but was passed in 2018. Why start these changes now during the pandemic that has left many unable to work and struggling to provide for themselves? NRS (Nevada Revised Statutes) 209.274 gives purview to the Director of NDOC to deduct an amount that he determines to be reasonable. I, however, cannot see under any circumstance how a deduction of upwards to 80 to 100 percent or even—could be determined to be reasonable by anyone’s standards. Additionally, compounding the problem—of the gift coupons that were allowed to be deposited. This amount allows up to \$500 to be gifted to the incarcerated person without penalties and deductions.

Chair Nguyen:

Ma’am, can I go ahead and have you wrap up and submit any additional comments in writing?

Ms. Tate:

Yes, I can. So basically, to sum it up, I just wish that they would reconsider the amount that is taken. Thank you for your time.

Lilith Baran:

I am reading a letter from an inmate at Ely State Prison. I'm going to start in the middle so I can get through the most important part. "Now more than ever we need to be able to communicate with family by phone and by mail and need the reassurance of their love as well. Lacking visits, the only way for our families to demonstrate that love is to provide inmates with money which would use for postage, phone time, hygiene products and creature comforts as provided through the inmate store. The new account deduction coupled with the economic uncertainty is leaving many families unable to send loved ones anything, which creates emotional detachment issues as well as communication disabilities for our inmates and loved ones. Meanwhile, those that do manage to send what little something are unfairly shouldering economic responsibility for an action they had no part of in addition to the already monstrous fees imposed by outside vendors to process these transactions." Briefly, this person's story is their wife is essentially a single parent. "As a result of their poor choices, she's left working full time, overseeing remote learning for her younger children and struggling to keep food on the table. On top of that, our adult child recently moved home thanks to COVID-19 and is jobless. Needless to say, there isn't much left over. She managed to send me \$20 recently which was already difficult to come by and was charged roughly \$8 for that privilege. On my end, I—of that \$20, I received \$12.25. Between the vendor fees and NDOC deduction, the transaction cost roughly \$28 for me to receive \$12. Of the remaining funds, I'm left with the choice of eating, cleaning myself or contacting family. Studies have shown that successful reintegration into society hinges on a solid family unit, sound communication and mutual feelings of affection. Because of COVID-19, we inmates are already being deprived of both the family visits and in-house mental health programs, both of which are designed to bolster reintegration and rehabilitation skills. These new deductions are only serving to further distance folks from loved ones and diminishing our chances for rehabilitation and positive reintegration into our family unit, all of which can only serve to hurt everyone in the long run. In conclusion, I humbly ask for the implementation of these new inmate account deductions be reevaluated and either caved completely or changed to a more reasonable format that allows already cash-strapped families to provide for their incarcerated loved ones. Thank you for your consideration. James, Ely State Prison."

Charrise Lothamer:

I am going to be reading a letter from an inmate in NDOC. It says, "To Whom It May Concern, the recent deductions made by the Director is having very negative impact on all those affected. For me, 80 percent is ridiculous. The prison pay is a joke to begin with, 80 cents to \$2 a day, most at the bottom end, but when they take that much it makes it almost impossible to get necessary hygiene items. They give you no shampoo. The soap is very waxy. They give you no underwear, deodorant. The toothpaste is proven to take enamel off your teeth or to contain poison. Phone calls will be almost impossible as well. This includes money sent in by family as well. In my case, my victim's got counseling, not paid for by her. The \$1,600 amount was picked up by Parole and Probation. I was ordered to pay that as restitution. Even though she doesn't get any of that because she never paid

it out of pocket, my JOC (judgment of conviction) just says \$1,600 restitution. It does not mention it has to be paid to her. Also, what's court costs, etc., have to do with Marsy's Law? That was intended for notification purposes which the state did anyway. The restitution, court costs, etc., should be paid when you get out and have a real job. That's how it's always been in the state. If not, maybe they should start paying us minimum wage at the very least. Thank you so much for your consideration."

Tonja Brown:

Tonja Brown, advocates for the inmates and the innocent. I look forward to the presentation of agenda item VI. It is a step in the right direction. Under mechanisms of retroactivity, I see another way to apply retroactivity to have the Nevada Pardons Board hold a hearing for the nonviolent offenders under AB (Assembly Bill) 236 serving a life sentence without the possibility of parole ([Agenda Item III B](#)). Have the Pardons Board grant a pardon to the offender serving a sentence of life without the possibility to life with. Have the Parole Board grant the parole to the offender and have them be released as soon as possible. This will save the taxpayers hundreds of thousands of dollars by holding a Pardons Board hearing than to wait for the new law change in AB 236. Under agenda item X, I would like to ask this Commission to consider a future discussion on AB 356, factual innocence to include factual innocence posthumously. In previous meetings you've been presented with information in support of factual innocence posthumously recommendation. You've heard about some of the injustices from those who have been wrongfully convicted and from family and friends of those who passed away before they could be exonerated. With the passing of the public request records bill, it now gives the families of those whose loved ones have passed away the opportunity to present newly discovered evidence that was never turned over to the defense. It will give the families the opportunity to exonerate their loved one's name who was appealing their conviction at the time of their death and address the claims and the petitions that were deemed procedurally barred that would have led to their exoneration. The money sent in from the families should not have to feel the impact from Marsy's Law. They did not commit the crime nor should they have to pay for the crime. Thank you.

Erika Minaberry:

I am reading a letter written by an inmate at the Indian Springs facility. "To Whom It May Concern, food, hygiene, stationery, stamps and the purchasing of minutes for the telephone are basic needs to an inmate like myself. These words are true in fact to the whole inmate population. Here in the NDOC, a percentage of inmates, as well as myself, are on the road and in the process of rehabilitation and are correcting our inhumane behavior physically, mentally, emotionally, spiritually. There is—necessities play a major role in our life survival, rehabilitation and correction of ourselves. Food and hygiene is a necessity for us human inmates just as it is a necessity for our fellow law-abiding human citizens outside in society. Now, without being able to obtain and maintain these basic needs, it can and will cause any human being to become stressed, depressed, extremely desperate, impulsive, selfish and resort to extreme negative measures as well as lose

sight of his or her rehabilitation and moral compass. The same goes for something even more important like stamps, stationery and the ability to buy time on the phone to keep in touch with family, friends and loved ones who encourage the rehabilitation and who give an inmate a reason and purpose to rehabilitate. For the 1,500-plus inmates in—there are many different illegal things a person can do to make money and get basic necessities, but out of the 1,500-plus inmates there are only about 300 jobs available to give or take and now the NDOC wants to put an even bigger burden on the inmates and their families by taking more money that they work hard for. This hinders the process or motivation that anyone would have for working hard and honestly for their money, which will affect society upon their release. This breaks the relationship with family and positive friends that encourage their rehabilitation.”

Chair Nguyen:

Can I ask you to wrap up? I would encourage you to submit your comments in writing as well.

Ms. Minaberry:

Okay, I just—how is this or how can this be the policy of NDOC who says they promote and encourage rehabilitation in corrections? Thank you.

Unidentified Caller:

Hi, my name is—I’m just reading a letter from an inmate—regards to recent changes to inmates’ accounts of how deductions are being taken from the accounts. It can’t be said enough how difficult the choices—incarceration—especially during the global pandemic. Now more than ever we need to be able to communicate with our family—the new account deductions are leaving many families unable to send loved ones any money—emotional detachment as well as communication—responsibility for actions for which they have no concept of—\$20 of \$12—half of those funds are—I humbly ask that these inmate account deductions be—completely or changed—

Denise Milanos:

Good afternoon, my name is Denise Milanos and my husband is an inmate in the Nevada Department of Corrections. Thank you for the opportunity to address you today. Like others you have heard from, will hear from, and also those who don’t have the opportunity to share their experience with you, our family has been affected by the garnishments placed on inmates’ accounts at NDOC. These reductions began September 1 and they have affected all inmates to some degree whether they are not being garnished from or whether they are getting 80 percent or more taken from them, and it is us, the families of the thousands of prisoners in Nevada, that are paying that price. Speaking for our family specifically, we didn’t know if the garnishments would apply to us so we also literally could not afford to take the risk. We tested an amount to see what the outcome would be and

he got \$4 out of the \$20 that I sent. We are a blended family with six children and the financial stress that was already there was made five times worse. Literally, five times worse. The only way we can make it financially each month is by budgeting, and even then we live paycheck to paycheck with little to no wiggle room like so many other Americans. Our monthly budget includes rent, utilities, car payment, groceries, but it also factors in \$120 a month for my husband to spend on hygiene and food as what they are given by NDOC and deemed as sufficient is in no way sufficient in neither quantity nor quality. But he can also treat himself to an indulgence like an ice cream from time to time, and I find comfort in knowing that he can have something that seems so little on the outside but means a lot inside prison walls. With this garnishment, I would need to send my husband \$600 a month for him to be able to continue to have that \$120 that he received. I would need to take on a part time job to be able to afford this, but with our children, distance learning and cost of childcare, that's just not feasible for us. You must remember that regardless of crime and culpability, my husband, like thousands of others, are humans before they are inmates, and as such they are worthy of being loved and thought of and cared for. The money we send to our loved ones is how we can convey those things, especially at times like this where we are unable to see them. These are very trying and unprecedented times with all that is happening and we are all struggling, whether that's financially, emotionally or physically. These garnishments add so much weight to an already heavy situation. It is my hope that a solution is found that takes into account the hardship we're all facing and that gives priority to the well-being of people over profit.

Val:

Good afternoon, this is Val again. I'm going to read my husband's statement. His name is Glenford, and due to the recent deduction being taken from the inmates' accounts he wants you to know that he has been incarcerated for 17 years and the only person who supports him is me and occasionally his family. He gets \$100 a month from us—well, from me, and in order to get the essentials that the prison system doesn't provide for him, that's where he gets those essentials from. "Taking the 80 percent of the money from my wife and my family members that they send me will make it a burden harder for them. I'm asking to please reevaluate the deductions set by the Director of Prisons and immediately stop allowing NDOC to raid inmate accounts until a reasonable solution can be found. Respectfully, Glenford."

Aislinn Lowry:

I am calling to read a letter on behalf of an inmate from McClure Women's Correctional Center. I'm calling from Nevada. She writes, "With the recent changes to percentages regarding restitution, it has been very impossible to live off of \$20 in a month. My mom deposits \$50 every 2 weeks on my books in order to purchase my necessities. These are not provided to me by the state. As of the first of September, 2020, I only received \$10 out of the \$50 put on my books. I am also paying my restitution off. I've been paying on it since October 2017 and I've brought it down to half when they were taking 20 percent of

my wages, which I made working in the prison industry job that I had. I feel that the responsibility of paying my restitution is the responsibility of the offender and that I was ordered to pay that amount by the court and not the responsibility of my family or friends who have the best intentions and is what they are doing to support us through what's happening with the hardship of the pandemic." Michelle says that she's writing this letter as a plea for you to rethink the percentages and allow a percentage that is reasonable for all parties involved, victims and offenders to be able to survive and to get those necessities that they need in their lives. Thank you very much, respectfully.

Pamela Pappas:

I have a son incarcerated at NNCC. This garnishment does not affect him as badly as some others, but knowing my son he will use the money that I send him to support others around him by sharing because that's the type of kid he is. However, I don't feel it's fair to any of the inmates to have that large of a garnishment taken, and I think to some extent the Director of Prisons who put these exorbitant garnishments on them should have to account to us as to why he came up with these percentages. I think he has no concern for the inmates' mental or physical well-being if he's going to take all of their monies away from them. My son works in the industry. They get paid slave wages. The families are the ones that put the money on the books for their loved ones, and we are not criminals and we committed no crime. We should not have to pay the restitution. I would just like you to take into consideration all the people that you have heard and help us to get these percentages lowered greatly and have the prisoners take care of them when they get out. Thank you.

Jodi Hocking (Return Strong Families United for Justice of the Incarcerated):

Hello, my name is Jodi Hocking and I'm calling in today. I'm the founder of Return Strong Families United for Justice of the Incarcerated and I'm writing to express my thoughts and concerns regarding the changes to inmate deductions and the impact that it has on both our loved ones inside and families outside ([Agenda Item III A](#)). First of all, I understand how the Governor and Director of Prisons are able to defend their decision by using both Marsy's Law and the—that give the Director pretty much unchecked power to decide what is reasonable to deduct. Unfortunately, I do not believe that this decision stands the test of what is actually legal and humane and find it horrifying that with no notice it created an entire additional cash system within the prison worse than it already was to begin with. This decision was not reasonable. It was reckless and no one inside or families outside will go unharmed. Today you heard, or will continue to hear, stories of the impact and injustice that's been added on to our loved ones' backs and on ours to achieve just the bare minimum of survival. The punishment for their crime was the loss of their freedom, not dehumanization. Eventually they will return to society, and NDOC has done everything within their power to break their minds, hearts and spirits, to disconnect them from their family and loved ones. This is yet another example of abuse of power, and as citizens of this state and country and the voice of the voiceless we're unwilling to stand by and watch the devastation and destruction that's being done to our loved ones. We're

asking that you do everything in your power to hold the Governor and Director Daniels accountable, to return to the status quo immediately and then to look at all of the factors involved that contributed to this abuse of power and help us to find ways to correct them and give our loved ones a fighting chance in addition to us that are on the outside. Thank you.

Nick Shepack (Policy Fellow, ACLU of Nevada):

I am calling to express a deep concern for Nevada's incarcerated and their families. We are told this new institution policy is necessary to meet the demands of Marsy's Law, yet California and Wisconsin cap all deductions including restitution at 50 percent. Florida and Ohio only take money for restitution from the wages of those in work programs at 10 and 40 percent, respectively. These are all Marsy's Law states and they are in compliance with the law. A reasonable cap on deductions in Nevada must be established. As stated by many before me, NDOC does not in fact provide everything an incarcerated person needs. Do we really want to say that extra soap during a pandemic is a privilege? Are tampons or deodorant privileges? Is food that allows someone to avoid a crowded chow hall during this pandemic a privilege? Are religious items such as prayer books privileged? Families provide these items by sending money to their loved ones, and at the 80 percent deduction these items now cost families ridiculous amounts of money. For example, 7 ounces of diced ham is now \$23; 3 pairs of cotton boxers, \$93; 4 ounces of antibacterial soap, \$9; 18 Playtex tampons, \$50; and a prayer—for someone to try to practice their religion is \$75 with these deductions. These prices are unattainable to make ends. They also know that individuals who do not owe restitution and do not have these deductions are now targets for extortion. This policy hurts everyone. It hurts families as well as the incarcerated individuals themselves. It is by no means a mandate. It must be ended and a logical cap must be put on deductions. The intent of Marsy's Law is to protect victims, not create them. Thank you.

Jenifer Henry:

I am reading a letter written by an inmate at Florence McClure. "To Whom It May Concern, my name is Kristina. I am writing to address the changes in the percentages of deductions to inmates' accounts regarding restitution. I completely agree that every victim is entitled to any and all compensation owed them. Where the problem lies is holding my family and friends accountable to pay my debt. It is literally robbery on the public who wants to support their incarcerated family and friends. I'm asking that you return to the status quo. Thank you."

Adrian Lowry:

I'm reading a letter written by a Korean. They are an inmate at NNCC. "Good afternoon. I am a person incarcerated in the NDOC. This letter is in regard to the recent change in deductions within the inmate account. During this time of crisis and pandemic, families are in a state of dire trouble. For the NDOC to take large amounts from money sent in

and charge high processing fees is a way to destroy family bonds and support. We need help to put an end to this. It's understandable to pay our fines and dues. At least take it from the money we earn within the NDOC and pay a decent wage from industry jobs. Please help. Thank you."

Atteberry:

Thank you. Madam Chair, my name is Atteberry. I'm reading a letter from Nicole, who is incarcerated at Florence McClure in Las Vegas. We are here today to speak in opposition to the raiding of the inmates' commissary funds. "To Whom It May Concern, my name is Nicole and I am currently incarcerated at Florence McClure Correctional Center in Las Vegas. I am writing in regards to the revised Marsy's Law on percentage and sequence of deductions that went into effect recently. My hope is to bring attention to the effects that this law not only brings to the incarcerated inmates but our families as well. I would first like to make it very clear that I understand the reasoning behind Marsy's Law. However, being that I am the one who caused the pain, I understand another perspective. My mother is the only one in my family that has remained supportive of me since my incarceration, but being that she has been caring for my now 7-year-old daughter, my mother can only give me her emotional support and rarely helps me out financially. I have survived in prison being able to purchase daily necessities such as hygiene items not offered by the state on the \$20 a month paycheck I receive working within the facility. At times I have been fortunate to have a friend financially help me or have a higher paying job in which I have then sent money home to my mother so that I can help with the strain of making ends meet. I know I cannot change my poor choices that I made nor heal the wounds I have inflicted, but I feel that if I can alleviate the burden my mother feels on her shoulders from the 8 years I have been incarcerated then I feel not only a desire but a responsibility to do so. The financial deductions that come as a result of the revised Marsy's Law make it extremely difficult, if not impossible, to afford not only necessary hygiene but also the purchase of phone time to connect and hook up with my mother and daughter and the ability to help my family financially. I want to continue paying off my restitution to my victim's family. It is at the very least that I can do for all the damage I caused. It is my opinion, though, that the 80 percent deduction from any wages put into the inmate's account should be reconsidered only for the reason being that 80 percent deductions puts an immense strain—

Chair Nguyen:

Sir, you are at two minutes, if I could have you wrap it up and then submit your letter. Thank you.

Annemarie Grant:

Annemarie Grant for the record, sister of Thomas Purdy, hogtied and asphyxiated at Washoe County Jail. My public comment today is to urge this Committee to recommend and support an amendment to AB 356 adding posthumous exoneration for deceased

persons to the bill ([Agenda Item III C](#)). I watched the legislative session and was disappointed the language was not included in the bill as I believe it should be. While the wrongfully convicted is alive, the burden and fight to exonerate their name does not belong to the wrongfully convicted alone. These people have families who also carry the burden and pain of knowing their loved one is innocent and advocating to exonerate their loved one. When an innocent person dies in prison, it's the ultimate travesty of justice. The battle for justice may end for the wrongfully convicted but their family still carries that burden. Currently in the State of Nevada there is no means for a deceased party or their family to exonerate them. With the current COVID-19 pandemic, I can only imagine how many will die while wrongfully convicted before exhausting all efforts to be freed. Dying in jail should not be the end of it. It is certainly not the end of the family's dilemma. I have personally witnessed the heartache, frustration and despair families of the deceased wrongfully convicted endure. There is an obvious stigma of being a relative of someone wrongfully convicted but who never had a chance to clear their name before passing. I have seen these families attacked by victims leaving insulting and vicious voicemails, all for wanting true justice. I have also seen them slandered by former law enforcement as well as degrading them for continuing to fight and not give up hope. I'd like to reference Ray Krone, an exoneree's letter that was submitted to this Committee at a past meeting. His words: "I don't ask you to imagine what those 10 years in prison were like for me. I want you to imagine what they'd be like for you if it were your son or daughter serving time for a crime they didn't commit. At what point would you stop fighting to clear their name?" Being deceased should not exclude families from presenting newly discovered evidence, and I implore this Committee to do their part in creating a truly just justice system in Nevada. Thank you.

Anthony Pestello:

I'm reading a letter for an inmate named Anthony. Here is his affidavit. Number one, that he has been a prisoner in NDOP for 24 years. "During my imprisonment, family and friends have thankfully sent me their hard-earned money to help with items I need to survive, such as hygiene, stamps, writing material and food. Some of my family are elderly, some are veterans on fixed incomes, and the money sent is a blessing from their heart to ensure that I have necessary items. Since the memorandum revision of AR258, no funds at all have been deposited nor will they because my family feels the gifts were for me to use and not to be confiscated by the state. The taking of funds is not a punishment to me as I have no income, but in fact takes directly from innocent civilians and veterans who are trying to help ensure that I have basic items to survive with. I ask that you please reconsider this as it prevents us from maintaining basic hygiene and legal material and writing material and the basic morale of the institution. I declare by exempt signature that the above is true and correct, and thank you very much for your consideration. We hope that you can repeal this." That's it. Thank you guys very much.

Chair Nguyen:

Thank you. I'll close public comment at this time. I want to thank everyone on the ACAJ (Advisory Commission on the Administration of Justice) for their patience and let the public know that I appreciate their willingness to participate in the process. I know that it is very difficult to find your voice and have an opportunity to be heard and make record of concerns that you have both to state officials but also to this very unique group of individuals that we are able to compile here as part of the ACAJ. Thank you to the public and thank you to the Commissioners for your participation and patience in listening to all the comments.

At this time, I'm going to move to agenda item IV, the approval of the minutes from the meeting held on June 11, 2020 ([Agenda Item IV](#)). I'd accept a motion at this time to approve those minutes.

MS. CARPENTER MOVED TO APPROVE THE MINUTES OF THE MEETING HELD ON JUNE 11, 2020.

MR. DERICCO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Nguyen:

We'll move on to agenda item V. We have Nevada Attorney General Aaron Ford, also one of our members, that will be presenting. We have quite a big agenda here, so I'm hoping that—I kind of told people ahead of time to try to keep this brief, and if you do have a PowerPoint presentation, I would encourage everyone to look at any of the documents that were uploaded as a part of anyone's presentation. With that I will turn this over to Attorney General Ford.

Aaron Ford (Attorney General):

Thank you so much, Chair Nguyen. Hello, fellow Committee members. I am joined today in the Zoom meeting by my Second Assistant, Christine Jones Brady, who is also a member of the Committee, I believe, and then I have my Special Assistant Attorney General, Theresa Harr, and they will be helping to present this brief presentation, Chair Nguyen, on the Justice and Injustice forum that I held beginning in May.

With that, let me begin. We held our first Justice and Injustice panel on May 31, 2020, just 6 days after the death of George Floyd. It was clear that there was a disconnect—there was discontent, rather, on the national level with the current set of civil rights, law enforcement practices and criminal justice policies. I wanted an opportunity to bring each of those stakeholders to the table to address the current issues and what meaningful change we could collectively make. Let me tender the screen to Christine Jones Brady, who is going to present to you, I believe it's a five-page slide show, real quickly.

Christine Jones Brady (Second Assistant Attorney General, Office of the Attorney General):

Thank you, Attorney General Ford. As you all know, Attorney General Ford has been working with this body as well as when he was a legislator on criminal justice issues, but when George Floyd's death occurred there were a lot of community outcries and misunderstandings amongst different people, and so Attorney General Ford wanted a way to bring people in the community together with law enforcement, and so here is a video that he played on his social media sites ([Agenda Item V](#)). This is an excerpt from where he introduces the concept of the town hall meetings. I don't know if anyone can hear this. I cannot hear, and if I'm talking over Attorney General Ford, please excuse me, but here he is telling the community that he sees them and that he is going to reach out to the community and to law enforcement and legislators to give them an opportunity to meet together.

With that, the Justice and Injustice town hall panels were born. He brought a lot of his staff together, including myself, but Theresa Harr, who is the Special Assistant Attorney General, really took the lead on organizing this with our IT (information technology) and with just bringing together, reaching out to community members to pull this all together. With that, here are some excerpts, and hopefully you all can hear it, but here are some excerpts from one of the early panels where we had various law enforcement officers join Attorney General Ford in a—law enforcement leaders from across the state join Attorney General Ford in a town hall meeting. So, we're unable to hear that as well, but if you—it's a really good session, and so if you want to see it more, you can visit the YouTube page at the Attorney General's website, and so if we can—I assume the next screen is not going to play either, but if we could give it a try. No, but this was one of the panels on the legislative members participating and discussing potential legislative changes. One of the notable things about this was that this was bipartisan and people from both sides of the aisle reached out to Attorney General Ford to participate in these town hall meetings, and here is a link to the Attorney General's website so that you can hear full versions of the town hall meetings. Thank you.

Attorney General Ford:

I'm so sorry that CJ's work wasn't able to be viewed on this Zoom screen, but what we would endeavor to do is to send an email to everyone with a copy of the five-page slide show and hoping you can watch it on your own screen and you can see the work we put

into that particular PowerPoint ([Agenda Item V](#)). With that, let me introduce Theresa Harr, my Special Assistant, for a couple of words.

Theresa Harr (Special Assistant Attorney General, Office of the Attorney General):

Thank you. As CJ mentioned, in our first Justice and Injustice town hall we had a panel discussion regarding protests around the country following the death of George Floyd. We had Sheriff Lombardo, Sheriff Balaam, NAACP (National Association for the Advancement of Colored People) President Roxann McCoy, Reno community leader Dr. Norris Dupree, Jr. and Pastor Dr. Edward Chaney.

Attorney General Ford:

This was our first panel, and I had an idea of what it is that I wanted to accomplish with these but I was concerned about getting others on board with having these difficult but important discussions in a public manner. Sheriff Lombardo, to his credit in particular, came to me directly wanting to have us here at the table and to be part of this conversation, and the conversation that ensued, I believe, was fruitful and it was exactly that energy we needed to get the wheels of change to start turning.

Ms. Harr:

A week later we had our second panel, and we focused on learning with legislative leaders. This was a bipartisan discussion with Majority Leader Cannizzaro, Speaker Frierson, Senator Kieckhefer and Assemblyman Roberts on the introduction of new possible legislation to help keep our communities safe.

Attorney General Ford:

I believe Assemblyman Roberts is on this Committee—I don't know all the folks on there—but to his credit, he likewise reached out directly to me as did Senator Kieckhefer, and I indicated that at the beginning of the meeting, saying that this was a bipartisan issue. Obviously I knew Senator Cannizzaro and Speaker Frierson were interested in this, so it was an easy opportunity for us to get together to talk about possible legislative changes that could be considered and passed to address some of the issues that were brought about because of what happened in the wake of George Floyd. It's incredibly important that we have state lawmakers in this conversation, obviously to discuss what legislative changes we can make and what changes we need to be looking forward to. There will be additional conversations in this as I know, and I've looked at the BDR (bill draft request) list to know that a lot of folks are presenting criminal justice-based BDRs, including my office, and we'll talk about those as time progresses, but it's extremely important and it was a productive conversation, I believe, with the legislators on this particular panel about possible solutions, legislative solutions, to help improve relationships between law enforcement and the communities that they serve.

Ms. Harr:

In our third panel, we had a really good discussion on law enforcement and community relations, focusing largely on transparency and accountability. At part of this panel we had a lieutenant from Elko Police Department, the Chief of the Henderson Police Department, Chief of North Las Vegas Police Department, the Pershing County Sheriff and Chief of the Reno Police Department and a member of the POST (Peace Officer Standards and Training) Academy.

Attorney General Ford:

It was again important for us to try to get as many folks who have an interest in this area at the table. It was by design that we broke these forums and these panels into specific conversation pieces, and this one involved leadership in our police departments rural, urban and otherwise, and each of these law enforcement offices all acknowledged that while there have been improvements in community policing and positive changes in their departmental policies, there is still a lot of work to be done in order to strengthen the relations between communities that they're supposed to be serving. Again, I was thrilled to have immediate "yes" responses from those to whom I reached out to participate in this, and it's important because these are all taped, as you heard. They are on my Attorney General's website and we are working with some folks to actually amplify these recordings additionally, and so stay tuned for that, but again, the conversations are important to note because as I've heard from a lot of folks, people were surprised that people were rallying around this notion, recognizing the issue and trying to come together with some solutions to address it.

Ms. Harr:

For our fourth panel, we had conversations with union representatives looking at the responses of the organizations representing law enforcement officers and executives. This panel featured representatives from the Nevada Police Union, the National Organization of Black Law Enforcement Executives, the Nevada Association of Public Safety Officers, the Latino Officers Association, the Las Vegas Police Protective Association and the Nevada Sheriffs and Chiefs Association.

Attorney General Ford:

A very important panel, and this conversation was a very important part of the conversation because it's one thing to hear from leadership, it's something else to hear from rank and file and from the officers themselves, and this was an important conversation because of some of the outreach that I received. I got emails and text messages from a lot of you who are on this panel on both sides of the aisle, from folks from the Legislature on both sides of the aisle, from folks who wanted to be allies during this time period—and frankly, I was going through my own trauma at the time and didn't have the best answer in response to the question of how you could be helpful. I thought

about it, especially in view of the Breonna Taylor grand jury investigation last week, and the answer that I would like to provide is be there when the fervor dies down, because it's inevitable. The fervor will die down. Be there when people inevitably start to conflate, as they are doing right now, people who are peacefully protesting with those who are co-opting those protests with violence. Be there and continue to speak out and continue to advocate for what it is that you said you were interested in advocating for, and these particular conversations are important because we heard people advocating during that time period.

There are a couple of particular parts of that conversation that stand out to me, specifically was how receptive each of the union representatives were to the ideas of making changes, acknowledging that there needed to be an improvement in transparency, in accountability in law enforcement agencies, that community relations needed to be rebuilt and that there needed to be a stronger oversight starting with the hiring and training of officers. In discussing community policing, Mr. Grammas of the Police Protective Association acknowledged that there needed to be a change in the culture and a change in the attitude of law enforcement, and I'm quoting him in saying that "if the only time that we engage in our community is if we are taking them to jail, that's a problem," and so recognizing the importance of community engagement was a key component of that conversation. Regina Coward-Holman of the National Organization of Black Law Enforcement Executives said, and I quote, "We have almost completely lost the trust of our communities because of a few bad apples. If there was something in place that can better or make our transparency better, why wouldn't we take that?" Mr. Spratley of the National Sheriffs and Chiefs Association was discussing past legislative sessions and was looking forward to the upcoming legislative session, saying, "Clearly I think things should change," and so again, taking these comments from those conversations as well as others from other members of earlier panels, it's imperative that we remember this and that these allies who spoke out in trying to improve relationships and look for ways forward continue to do that.

With that, Theresa, let me go back to you.

Ms. Harr:

For our fifth panel, we focused on community organizations, looking at what changes have been made in the short time since the death of George Floyd and how much further we still have to go. As part of this conversation we had Mujahid Ramadan of MR Consulting, Laura Martin from Progressive Leadership Alliance of Nevada, Holly Welborn from ACLU of Nevada, Craig Knight from KCEP, Monique Normand on Black Lives Matter, Leslie Turner from the Las Vegas Freedom Fund and Athar Haseebullah of Opportunity 180.

Attorney General Ford:

Again, this is an opportunity to bring in folks who are experiencing this on the ground floor, and this conversation was another opportunity for us to hear directly from folks who want to participate and who want to see better relationships between law enforcement and the communities that they serve. During all of this conversation—I can't remember exactly which one it was, it probably was with the union representatives—I introduced a brainstorming list. It was a rookie mistake. I never should have said it out loud, to tell the truth, that I was looking at some notes that I had drafted up to talk about certain ideas that could be considered legislatively. They weren't ideas that my team had vetted, that we had adopted or anything like that. They were just looking at what we were seeing across the nation, and lo and behold, we got a public records request from a local media agency, a couple of them, and they published that and it became a part of the fodder of "they want to change 74 things," and that is inaccurate. Let me clarify that. Let me clear that up right now. The conversation pieces are intended to nail down into actionable opportunities and items. That list, let me say one more time, was not a list of 74 suggestions that we think you need to be doing as a Legislature in order to fix things. It was a brainstorming list that, again, I should have just kept to myself, because when you say it out loud, somebody asks you for the document that you're looking at.

In any event, it was positive to see that in that fifth meeting the ACLU and Metro (Las Vegas Metropolitan Police Department) had open dialogue to change Metro's policies regarding protests and dispersal orders, but there is still a lot that needs to be done and to be addressed when it comes to arrest practices, public transparency, bail reform and equitable sentencing. The panel in particular reiterated that there are at least two more panels that we need to have, and I intend to do those. I just have to find the right time to get into it, because again, the criminal justice system isn't just about policing. It's also about prosecutors and public defenders, and so I want to have a panel about that to see what can be done to fix that part of the system because the discretion that's offered to certain individuals during that timeframe is not the same relative to other members of our society, and then another panel relating to the judicial system, because we also know that when it comes to sentencing that there are disparities that need to be addressed, so having conversations with stakeholders and law enforcement, with unions, with community organizations and with state lawmakers is incredibly important. We can't let it die out and we can't let this talk end with no action. Again, if you were an ally and you were asking for opportunities to move this ball forward, don't get silent now. Don't be complacent. Football can now distract you. That was not the case when the fervor was initially upon us, and I was conditioned to think, because I've seen this before, that the fervor will in fact die down and nothing's going to happen. Everybody's going to be talking and no one's going to do any work about it. I'm hoping to be proved wrong.

I am delighted to see that during the Special Session some changes were made and some laws were passed, and I'm looking forward to additional conversations on the going-forward basis because I will continue to push forward to ensure that we have an equal justice system because it should be justice for all. Thank you so much for the opportunity

to present our findings and some information about our Justice and Injustice panels. We will continue to stay engaged, and I will entertain any questions the Chairwoman may have or any others that you will allow me to entertain.

Chair Nguyen:

We'll open it up if there is anyone that has any questions for Attorney General Ford. Okay, I don't see any here. Thank you, Attorney General Ford. I really appreciate you taking the time and presenting a feedback on your dialogue, and I think that's always important to just keep that conversation going, so thank you. With that, you were at 15 minutes and 25 seconds, because I was timing you. I appreciate you being effective and efficient in your presentation, and I know it is setting the standard for the remaining participants.

I'm actually going to skip ahead to agenda item VII. This is a discussion of potential technical corrections to AB 236 from the 2019 80th Session. Due to some time considerations, I'm going to ask Director Carpenter to make the first presentation at this time, so if we could move to that and I'll turn it over to Chief Carpenter and her team. I know they are mindful that they have a pretty extensive topic here, and hopefully everyone's had an opportunity to review some of the documents that were provided ahead of time and there will be some time to ask any questions of Chief Carpenter after this. Thanks.

Anne Carpenter (Chief, Division of Parole and Probation):

I have Lieutenant Ryan Osborn and Lieutenant Aaron Evans who will be presenting for the Division, so if they could go ahead?

Ryan Osborn (Lieutenant, Division of Parole and Probation):

I'm joined this afternoon by Lieutenant Aaron Evans. Together we'll be providing the Division's AB 236 language for moving forward. I will walk you through the first portion of the presentation and Lieutenant Evans will handle the second portion of the presentation.

As the Division prepared to implement AB 236, we noted specific areas of opportunity for improvement ([Agenda Item VII A](#)). Specifically, we identified language that contradicts or lacks clarity within AB 236. We identified areas of statute that create operational concerns for the Division as well as identified areas of statute that need to be updated to fall in line with the spirit and intent of AB 236 as a criminal justice reform bill. In addition to those areas, we identified areas within AB 236 that should benefit from separation of parole and probation statutes into their own respective categories.

Now, on to those recommendations. The Division recommends statute changes in the following areas: revision of presentence investigation report language, modernization of terminology, operational concerns, removal and cleanup of outdated language. With regards to presentence investigation reports, the Division seeks to alter two main areas

of statute. NRS 176.145(1)(h) creates the possibility for dissimilar work product on behalf of the Division. Under the provisions of this section, one court may request records that another court did not, thus creating two different possible outcomes. The Division is striving to create a uniform work product, and allowing courts to make these requests could lead to a varied work product statewide. The Division also notes under the provisions NRS 176.145 that the Division is no longer statutorily required to make sentencing recommendations. However, the Division notes under NRS 176A.100(3) that “the courts shall consider standards adopted pursuant to NRS 213.10988 and the recommendation of the Chief Parole and Probation Officer, if any, in determining whether or not to grant supervision.” Considering language of NRS 176.145, the Division proposes clean-up of the conflicting language from 176A.100. The Division further acknowledges that NRS 213.10988 is problematic, but we’ll discuss that later in the presentation.

Now, the modernization of technology. Modernization has come to Parole and Probation in the form of a risk assessment tool that is extremely beneficial to the Division and to the support and functions of its mission. This new tool, however, requires us to adapt a bunch of our language as we apply modern terms for historical practices. The term intensive did historically line up with the level of supervision as well as a risk factor identification for the Division. Due to the innovations brought about by our new risk assessment tool, the term intensive is no longer relevant. In review of statute, there are numerous incidents where terminology like intensive, close or strict are used to articulate a means of enhanced supervision. Therefore, we proposed a simplification and modernization of the terminology to the term enhanced supervision. This is a clear and concise way to articulate that a person is being more carefully supervised without the negative connotations of intensive or strict.

Since we’ve dealt with the modernization of terminology, let’s turn our attention to the operational concerns. There do exist more than two operational concerns for the Division, but for today’s presentation we’ll address two of the most readily identified issues. NRS 213.1078(3)(a) as well as NRS 213.1078(5) create the possibility for a supervision level to be set by the Parole Board or by a court by stating if the level of supervision for the parolee or probationer is set by the court or the Board. The Division proposes that supervision levels should be established by the Division’s new risk and needs assessment tool, not by the Parole Board or the court. The Division is in the business of assessing risk and needs for the purposes of community supervision, and this recommended cleanup language allows the Division to exercise its discretion and skill in using its risk and needs assessment tool for all community supervision. The Division further recommends the cleanup of language relating to residential confinement under 176A.660(2)(b) and 213.152(2)(b). These sections allow for a judge or the Parole Board upon violation to place a person on a 6-month term of residential confinement in an NDOC facility. This does not appear to be in line with the system of graduated sanctions required by AB 236.

AB 236 was a far-reaching multi-faceted section of reform, and as such it could not have possibly sought to deal with every possible issue, so in the next slide we’ll discuss two

areas where removal or cleanup would be necessary to update the statute in line with AB 236. The Division recommends that NRS 213.10988 be cleaned up via the removal of language with regards to the requirements to make sentencing recommendations. In NRS 213.10988(3), the statute still states the Division shall adjust standards to provide recommendations of greater punishment. Obviously, if we're no longer making recommendations per NRS 176.145, we have no capability to recommend greater punishments. NRS 213.10988(5) states that we'll gather the number and percentage of recommendations, which of course we can no longer comply with as we are no longer making recommendations. Again, these two sections are out of line with the overall direction of AB 236. The Division also noted that NRS 176A.100 currently contains language that states that the court shall consider the standards adopted pursuant to NRS 213.10988 with regards to the granting of probation. If the outdated language is cleaned up in NRS 213.10988, it will only include revocation recommendations. Therefore, no need would exist for NRS 213.10988 to be cited in 176A.100.

Now I'll turn the presentation over to Lieutenant Aaron Evans to provide you some insight for further proposed revisions.

Aaron Evans (Lieutenant, Division of Parole and Probation):

Thank you, Lieutenant Osborn. This is Lieutenant Aaron Evans from the Reno Parole and Probation Office. I'm going to shift gears into a detailed recommendation to clean up certain parts of NRS that has to do with the violation process for probationers ([Agenda Item VII A](#)). When a probationer violates their supervision and the Division has exhausted all the graduated sanctions, the probationer is arrested and returned to their sentencing court, but before they can go back to the sentencing court the Division prepares a violation report that outlines all the violations in graduated sanctions and prepares for an inquiry that's outlined in 176A.580. During this time, the probationer is not afforded bail and they will remain in custody until they are seen by their district court judge. With changes that were brought forth in AB 236, the Division believes that NRS 176A.580 through 176A.610 can be cleaned up or removed while maintaining a probationer's right to due process.

NRS 176A.580 outlines the Division's requirement to hold an inquiry or an informal hearing to determine whether or not probable cause exists that a probationer has violated their supervision, allowing the no-bail probation hold to remain. This hearing can occur any time after arrest but no later than 15 days. Generally, the hearing is scheduled on or near the last allowable day to ensure that the Division has enough time to research all the violations, obtain outside police reports, follow up with service providers, etc. The Division will provide the probationer with a copy of the violation report at least 5 days prior to the hearing to allow them time to prepare for that hearing. The probationer can waive the hearing when served their violation report. However, up until that point, the Division is beholden to the timeframes that are established in statute and our own policy. As it's an informal hearing, it is conducted between the supervising probation officer and an uninvolved Division officer and the probationer, usually at the detention center where they're being held. At the hearing, the supervising officer outlines all the alleged violations

and the probationer has the opportunity to admit or deny the violations or provide some sort of mitigation. If the uninvolved officer finds that there is probable cause that the probationer has violated the terms of their supervision, then the no-bail probation hold will remain and they will remain in custody until seen by the court. There is one caveat where probationers are not entitled to this inquiry, and that's if they are convicted of a new crime other than a minor traffic offense. However, that occurrence is fairly rare given that a conviction would have to occur within the first week or so after arrest.

What's changed that leads the Division to believe that removing this inquiry would maintain a probationer's due process rights? Well, AB 236 added language to NRS 176A.630 that mandates a probationer be returned to court no later than 15 calendar days after the date of arrest if they are arrested solely for technical violations. Prior to this new language, there was no established timeframe for probationers to return to court. For those that are not aware, technical violations are the violations of court-ordered conditions of supervision and some minor misdemeanor convictions. Common technical violations include the consumption of drugs and/or alcohol, failing to seek or maintain a treatment program, failing to report to their supervising officer, moving without permission, possessing weapons other than firearms, failing to seek and maintain employment, associating with other felons or individuals on probation, and some misdemeanors like petty theft or trespassing. With 176A.630 ensuring that probationers are seen in court in a timely manner to determine probable cause for the violations, it allows the court to address them appropriately.

So, what about those violations outside of the technical violation definition? That's going to be violations for new arrests for felony, gross misdemeanors and some misdemeanors, crimes of violence, stalking, protection order violations, those kinds of things. Those are not subject to the 15-day return to court rule. We call these non-technical violations. In these instances, the probationers appear before a magistrate on the new charges who has reviewed the probable cause statement by the arresting agency, sets bail if appropriate and schedules further court dates for the new charge. These magistrates or judges don't necessarily make any specific rulings in regards to probable cause of violating the terms of probation supervision. However, every probationer has a condition that states they will abide by all federal, state, county and municipal laws. Therefore, if probable cause is found that a new crime is committed, it should prove to be that it violates that standard probation condition.

The only other area of violations not covered under the technical violations or new charges are when a probationer absconds from supervision. AB 236 provided a definition of an absconder as someone who actively avoids supervision of the Division for a period of 60 days or more. When this occurs, the Division will submit a report to the district court judge who reviews the report and determines if there is probable cause to issue a bench warrant for that person for absconding from supervision.

Right now, this slide illustrates our current system requiring the inquiry under 176A.580, which we feel is burdensome and redundant given some of the recent changes. We are

required to hold an inquiry in all instances, even now when there are mandated timeframes for return to court for technical violations or the case has been reviewed for probable cause by a judge or magistrate in a new criminal charge or an absconder setting. If NRS 176A.580 through 176A.610 were cleaned up or removed, it's going to speed up the violation process, it's going to reduce redundancy and it's going to save time for the Division which in turn is going to be better spent supervising the rest of our population. A probationer's due process rights are going to be protected as they'll still be seen promptly by a judge or they'll have a warrant issued for absconding based on the probable cause report provided to the court.

Now, I spoke all of probationers. NRS 213.1511 does cover the same requirements for parolees. The violation process for new criminal charges and absconding committed by parolees is similar to probationers. However, as there's no mandated timeframe for return to the Parole Board, the Division is not as confident in cleaning up that section of NRS without considerable consultation and input from the Parole Board.

Lastly, I'm going to speak about separating parole and probation language into the appropriate statutes ([Agenda Item VII A](#)). AB 236 revised a few statutes that combined language for parolees and probationers. Chapter 176A of NRS controls probationers and suspension of sentences. When 176A.510 was amended last year, it created a system of graduated sanctions for dealing with parole and probation violations. The Division believes that this NRS should be amended to only address probation violations and a similar chapter should be added to 213 to specifically address parole violations. Similarly, chapter 213 which covers pardons and paroles has newly added language in 213.1078 which addressed risk and needs assessments for parolees and probationers as well as established individual case plans for those on supervision. In the interest of keeping the statutes as clear and as easy to follow as possible, it's recommended that the language in 213.1078 be amended to only address parolees and a similar chapter be added to 176A to specifically address probationers.

Lastly, Lieutenant Osborn talked about chapter 213.10988 making references to the Division making recommendations for the granting of probation and continuing of parole and probation, presumably in revocation situations. As I just talked about with the previous two chapters, it would be a lot more clear if the language for parole and probation was separated into its own appropriate chapters.

That concludes our presentation. Thank you for your time. We will entertain any questions anybody may have.

Chair Nguyen:

Thank you.

Kendra Bertschy (Deputy Public Defender, Washoe County Public Defender's Office):

I appreciate that, Chair. I just want to confirm with two of the proposed changes. On the first, I just want to make sure that I'm understanding it correctly, that your proposed change regarding the recommendations to the court at sentencing is you change NRS in order to make sure that it is clear that the Division is not to provide any recommendations for sentencing, specifically when—for a recommendation of probation that it's not any requirements? Is that the first? Is that one of those, just to clarify and change that across the board?

Lieutenant Evans:

When 176.145 was amended, it took the recommendation out of the PSI, the presentence investigation report, so our assumption is going to be if the intent was to take it out of the PSI, when and where else would we be making sentencing recommendations? We're taking it out of the hands of the Division, leaving it up to the courts, and it just seemed like there were some places in the NRS where it got missed, that there was still reference to the Division making recommendations for probation supervision.

Ms. Bertschy:

Thank you, and I appreciate that. My second question is just regarding the technical violations. With the proposal on when somebody is on probation and they violate the probation, I was just a little confused with what the recommendation is. You're saying you're getting rid of the administrative review period, but is that person who is in there now going to stay in custody on a no-bail hold? I just wasn't sure how that's playing a part of that.

Lieutenant Evans:

The inquiry hearing that we referenced comes from case law *Gagnon v. Scarpelli* and *Morrissey v. Brewer* from the 1960s, but it established a system of a preliminary revocation hearing before a formal revocation hearing, but probation supervision has changed and adapted so much since that case law that we feel that it's redundant and not necessary because there weren't timeframes where somebody had to be returned to court when those laws were enacted. In these instances, somebody's in there on technical violations. When the law was amended last year, it now says they have to go back to court within 15 days. That's about the shortest period of time that we can have to prepare a proper violation report, to gather all the facts to make sure that the court can make an informed decision on what those violations are, so we would just remove this informal hearing because they're going to see the judge within 15 days on those technical violations whereas the inquiry hearing doesn't even have to happen for 15 days. There's kind of a conflict in the law that says this hearing has to happen within 15 days but they've

also got to be returned to court within 15 days, and so what's the point of this informal hearing if they're going to see a judge in the same timeframe?

I hope that answers what you are asking.

Ms. Bertschy:

It does, thank you. I appreciate that.

Chair Nguyen:

I actually have a follow-up question to that. I know that prior to this 15-day time thing—but I'm thinking of a situation where you're able to have that preliminary or informal hearing prior to that 15 days and then you decide. Are there situations or people where you're making a decision not to forward it on and just put someone back out on probation and withdraw any formal probation violation? Does that happen? Does that make sense?

Lieutenant Evans:

We will make those decisions before we get to that point. A supervising officer will review the case with their supervisor and we'll discuss the violations, discuss what sanctions have been applied, have we gotten to that point where they need to go back to the court. If we feel that it's somebody's first violation or second violation and we can work with them further, we will release them from custody administratively without having to schedule revocation hearings or anything like that. If we're going to make that decision, it's going to be well before we get to that point where we have to do a violation report, and to be honest, when we do these inquiries, I cannot recall a time where we have done an inquiry and not found that there was probable cause that they had violated their supervision to be sent back to court. That's not saying it couldn't happen, but with the directives of the Division and the new laws that were passed, offenders are going to know when they are in violation. We have to give them written notification that they are in violation and we have to exhaust all of our sanctions before we can send them back to court. At this point, supervision has changed so much that we just don't feel that this law is necessary anymore.

Senator Melanie Scheible (Senatorial District No. 9; Vice Chair):

I just wanted to clarify that the specific statutes that you guys touched on in your presentation only apply to people who are on parole. Do they only apply to people who are on parole and probation supervision, or are these things that the Clark County Detention Center and the Washoe County Detention Center and all their equivalents throughout the state would also have to be attuned to for pretrial release candidates?

Lieutenant Evans:

No, everything we discussed is for parolees and probationers. The second half that I talked about was strictly probationers post-sentencing for a gross misdemeanor or felony.

Senator Scheible:

Thank you.

Chair Nguyen:

Do we have any other questions out there?

John Piro (Chief Deputy Public Defender, Clark County Public Defender's Office):

Chairwoman Nguyen, may I just chime in a little bit?

Chair Nguyen:

Of course.

Mr. Piro:

On the preliminary inquiry hearing, we had talked about that issue in the Criminal Justice Coordinating Committee down here in Clark and we had actually talked about trying to get rid of it. From the Clark County Public Defenders' standpoint, we support that idea as well, especially since people are going in front of the judge within 15 days. It is an unnecessary step, and although ADKT (administrative docket) 411 is this great thing with a lot of aspirational goals, it's impossible with our caseloads for us to even try to be there for a preliminary inquiry, so it'd be just better to just keep it at the revocation hearing within 15 days and knock out that intermediate step.

Lieutenant Evans:

Glad to hear we are in agreement.

Chair Nguyen:

Thank you, Mr. Piro. Is there anyone else that has a comment or a question? Chief Carpenter, did you have anything further to add?

Chief Carpenter:

No, I didn't. Thank you, and thank you, lieutenants. I appreciate it.

Chair Nguyen:

Well, thank you, I appreciate you guys making that presentation. I know that you had reached out to both myself as well as Assemblyman Yeager regarding some of those potential corrections, so I'm glad you were able to present to this Commission. Thank you for your time. I know that you might have to step out, Chief Carpenter, so I appreciate your time as well.

I think I might just continue on this agenda item, if that works for everyone, and if I could ask Mr. Piro, I believe you have a short presentation, so I'm going to actually call you next if that's possible. Are you ready?

Mr. Piro:

Yes, Assemblywoman, I am ready. Our portion is short. If I may, the few things that we had as far as technical corrections were looking at perhaps habitual sentencings and trying to make perhaps the provisions that apply going forward the 5 for the small habitual and the 7 for the large habitual, applying the same as the Legislature did in the special session, meaning does it apply at your sentencing now rather than at the time when you committed the crime? So, if you had committed a crime before July 1, you may be under the old habitual framework, and so if that was a technical correction that we could make.

The next thing would be with gross misdemeanor probation. Some of the way probation is worded as far as crimes of violence are allowing for probations terms of 5 years by some judges, whereas in the past probation terms for a gross misdemeanor were only 3 years, so that's actually allowing for a longer term. I don't know if that's anything this body wants to address.

The last thing would be that there are some justice court judges using their 2-year ability to handle the case as making that kind of an informal probation, keeping people on this informal probation for 2 years, which would be longer than probation for a gross misdemeanor now if you had actually went up to district court.

Those are the short things that we wanted to address technical-wise, and I'll just say I've reviewed the Clark County District Attorney's presentation. That seems more substantive than just technical, and what I would ask is if we could just—we've just really been living in the AB 236 world from July 1, so it's only September. We've had no time to really let this law take place and gather data before making changes, and I would just ask this body to suggest to the Legislature that we really do just let 236 take shape and then see where we're at once we have data and what changes need to be made. That would be it for us.

Chair Nguyen:

Thank you.

Mark Jackson (Douglas County District Attorney):

Thank you. Sorry, I may have missed something. I didn't see any material that Mr. Piro had provided, but if I'm understanding him correctly, other than some of the changes that everybody has recognized need to be made, Mr. Piro is suggesting that they make additional changes which are substantive but he's against any of the substantive changes that are being advanced by the Clark County District Attorney's Office, so I have a hard time understanding that we don't do anything except for what he's asking us to do but we don't do anything that any prosecutor or any other law enforcement agency wants to do.

Chair Nguyen:

Mr. Jackson, I think that he is just giving his opinion. Obviously I have agenzized the issue with regard to the district attorneys' concerns. With full disclosure, when I was appointed as Chair I had indicated even back then that I wanted to address some of the issues that I think were kind of rushed through and needed some bigger discussion with regards to drugs. So graciously, I know the Clark County District Attorney's Office will be presenting on that, so I appreciate your opinion and Mr. Piro can also have his opinion on the matter as well. I'll just leave it at that. Did you have anything further to say?

Mr. Jackson:

No questions for Mr. Piro.

Chair Nguyen:

Does anyone else have any other questions for Mr. Piro at this time? With that, thank you, Mr. Piro, for your presentation. It doesn't look like there are any other questions, and so we will move on to the next presentation, which I believe—Chuck are you ready? Are you presenting something at this time?

Chuck Callaway (Police Director, Las Vegas Metropolitan Police Department):

Madam Chair, thanks. Based on the fact that we're trying to be efficient, in reviewing John Jones' presentation, I believe he covers the issues that I was going to raise in regards to the loophole in the marijuana statute, so I would defer to his presentation for my comments.

Chair Nguyen:

Thank you, I appreciate that. I know sometimes we all like to hear ourselves speak, so I appreciate you consolidating your time with a presentation that's already being made. Mr. Jones, are you on the line and prepared and ready to go forward with your presentation at this time?

John Jones (Chief Deputy District Attorney, Clark County District Attorney's Office):

Yes, Chairwoman Nguyen, I am ready to proceed.

Chair Nguyen:

Okay, wonderful. I will turn it over to you. I've got a timer on you, so keep that in mind. Thank you.

Mr. Jones:

Thank you, Chairwoman Nguyen, members of the Committee. I'm a Chief Deputy District Attorney (DA) in the Clark County District Attorney's Office. I also have an additional responsibility, which is I handle legislative matters for the office. I want to start off by actually echoing what John Piro indicated, that we have only begun implementing AB 236, again for about 90 days, so the issues that I'm bringing to you today are the issues that have been brought to me by members of my office, the Clark County DA's Office, and other DAs from around the state. In the future, I may come to you with other issues that have arisen as we again go through the process of implementing this bill. I'm sure most of you are aware that we're not conducting trials right now. Really, the most substantive litigation occurs prior to trial, and so I do anticipate more issues will arise once we get to that stage.

The first set of changes that I want to talk to you about are requested changes to the parole and probation section ([Agenda Item VII B](#)). The first is the inquiry hearing that has already been discussed by Chief Carpenter and Parole and Probation. I will just say that we do join in their request to make changes to that here. The second set of changes we're proposing with respect to parole and probation are some changes to the definition of a technical violation, and I know that these may seem substantive but I just want to say that the reason we're proposing them is to make sure that similar offenses are treated in similar ways. For example, right now a violation of a specialty court program is not a technical violation. In Clark County, we use inpatient treatment very similarly to the way we use a drug court. In fact, they are interchangeable oftentimes. Defendants will apply to both hoping that they'll get into either inpatient or a specialty court, so it doesn't make much sense that one is considered a technical violation right now, inpatient treatment, whereas a violation of a specialty court is not considered a technical violation. Even though this may be substantive, our argument is that it is meant to provide that similar type of conduct or similar type of programs are treated similarly.

In addition, we've had some issues brought to my attention in Clark where defendants were coming back on technical violation involving firearms. While there is a new offense, possession of a firearm by a prohibited person, not everybody on formal probation is a felon. We do have gross misdemeanants on probation. In instances where those

defendants are in possession of firearms, it's our position that that should also not be a technical violation.

Finally, violations committed by sexual offenders, offenders found loitering around parks taking pictures of kids. These are issues that have been brought to our attention that we feel should be excluded from the definition of technical violation, and it leads me to a broader point of view—and while I've got your attention, we are of the belief that we should provide more flexibility to judges with respect to technical violations. I do understand that the point of this was to prohibit, or at least make it more difficult, for people who commit certain violations from being sent to prison. As I think I've just demonstrated here with at least the three types of technical offenses that not all technical offenses are created equal and we need to trust our judges in terms of whether or not the offenses rise to the level of necessitating prison.

Additionally, I want to add that there are certain offenses that are eligible for the list of early termination or reduced probation offenses, but they don't really line up. We're talking about serious crimes against a person right now are excluded from these reduced probation terms or early termination. It's our position that residential burglary and home invasion or discharging into or from a structure are the same types of offenses, that being of a serious and personal nature, that they should also be added to the list of excluded offenses. I also wanted to point out that there are other offenses that may not involve a victim but still are very serious, and we should also look at adding them to the list of offenses that are not eligible for the reduced probation terms or early termination, and that is possession of a firearm by a prohibited person and carrying a concealed weapon. I recently found out as well that animal abuse, abuse of animals, etc., is eligible for these benefits under 236, and maybe we should look at adding those to the list of excluded offenses.

Finally, it's been brought to my attention as well that the statute is not clear. For defendants who commit technical violations who want to be revoked, it is not clear that the statute under AB 236 would allow for that, and believe it or not, there are some defendants who just want to go to prison and no longer be returned to probation or supervision, and it's unclear whether or not the current scheme under AB 236 would allow for that.

I'm going to just briefly touch on diversion because it—one of the arguments that has been made most to me is the diversion statutes have been written for low-level offenders, entry-level offenders. However, in reality it's more deep-end offenders who have been using these specialty court programs, veterans court, drug court, etc., and maybe we should provide more clarity and congruence with respect to how we actually use these programs as opposed to how I think certain people would like them to be used.

With respect to controlled substance, I know Chairwoman Nguyen has just mentioned that you guys are undergoing a serious look concerning controlled substances and the various penalties, but it has been pointed out that PCS (possession of a controlled

substance) with intent to sell, so the addition of intent to sell, is one of the lower level category of felonies with respect to controlled substance, when in fact the intent to sell element makes it one of the more serious offenses.

Finally, I want to point out that prior to the adoption of AB 236, possession of marijuana over an ounce but yet under 50 pounds, the level needed for marijuana trafficking, was a category E felony, but because of some inadvertent language changes in AB 236 the penalties have been all screwed up with respect to marijuana. I use the term inadvertent because, reading the legislative history and the digest for AB 236, it is clear that the Legislature did not mean for the penalties that are on your screen to be the penalties for marijuana. You can see clearly that they are nonsensical. You go from a legal amount to a category B felony to a higher category B felony to—for 100 grams to 50 pounds there is no specific penalty mentioned right now, and then for 50 pounds you then drop down to a category C felony. There is a similar issue for THC (tetrahydrocannabinol) and concentrated cannabis as well. In terms of technical issues, we do need to go back and take a look at the penalties for marijuana. I can tell you right now—because it's our opinion that this was inadvertent, and the legislative history and digest of AB 236 show that this was not the intent of the Legislature—we have been continuing to charge possession of marijuana over an ounce as the category E felony that it was prior to the implementation of AB 236.

With that, Chairwoman Nguyen, I'm willing to answer any questions that the members of the Commission may have.

Chair Nguyen:

I have a quick question with regards to the diversionary statutes and wanting to add additional charges that should be potentially excluded from the veterans' treatment program or drug court. It's my understanding that all of those specialty court or diversionary programs also have their own level of assessment. For example, just because you want to go into the veterans' treatment program, you have to be assessed and deemed appropriate for that program, and the same thing with drug court, so even though you may have a violent offense that technically qualifies you to be accepted in that, if you're not assessed and appropriate for that program, they are not accepting. Is that not your understanding of what is happening, or is that not happening?

Mr. Jones:

That is happening right now in Clark County, and I believe for veterans court and mental health court specifically all felonies other than category A felonies and those felonies which are non-probationable are eligible, and it's not necessarily eligibility that we're necessarily quarreling with. For example, right now the specialty courts statute, veterans court and mental health say that if it's your first felony the court shall dismiss, but a lot of people in Clark County specifically end up in that program through a probation revocation. In other words, the specialty court wasn't given initially but it was there because

somebody has in fact violated a condition of probation, and so that's an example of how we're actually using the program that doesn't really match with how the statute was actually written. I would argue that somebody who received probation then failed at probation but is given another opportunity through the drug court program should not then end up with a dismissal at the end.

Chair Nguyen:

You were part of some of those discussions during the 80th Session when we were discussing 236 and some of these specialty courts that our concern is they had started to turn into just conditions of probation and had lost that incentive that you get when you complete an intensive program like the veterans' treatment program and you get that dismissal at the end. Would it be more appropriate to have it done at the get-go, like have mandatory diversion for those individuals?

Mr. Jones:

Each circumstance is different, Chairwoman Nguyen, but I think DAs across the state would love it if we could mandate these specialty courts earlier in the process. The fact is in Clark County specifically, defendants don't want treatment until they are facing probably likely prison. Those are the situations in which we get people who want the intensive specialty court process, and so that's where our beef with how the statutes are written right now, that's where it really lies. If you can find some way, Chairwoman Nguyen, to get your clients to accept drug court and mental health court earlier in their criminal histories, I think DAs would be elated at that.

Chair Nguyen:

Mr. Jackson, are you having those same kind of issues up north?

Mr. Jackson:

We are, absolutely.

Chair Nguyen:

Do you have anything further to present regarding that, John?

Mr. Jones:

No, Chairwoman Nguyen, that concludes my presentation if there are no more questions.

Holly Welborn (Policy Director, ACLU of Nevada, Inmate Advocate):

Thank you, Chair. I have really more of a request, I guess, throughout all of these presentations that we're receiving today. What I would really like to see before we work session any of these recommendations and potential recommendations that we're going to send to the Legislature that perhaps our folks at CJI (Crime and Justice Institute) who are providing technical assistance, if they can give us a breakdown on how this is going to affect the overall reinvestment goals of AB 236.

Chair Nguyen:

I think that's a good idea. I can go ahead and reach out to them if they're not listening right now and see what kind of information that we can get. I know they were able to supply some of that data during the 80th Session when we were work sessioning some of this stuff during the session, so thank you, Holly.

Ms. Bertschy:

Thank you, Chair Nguyen. Mr. Jones, I just want to confirm, so with your proposed changes for the modifications on the probation terms, is that just based off of the charges themselves and not based off of any data or statistics as to how increasing the probation lengths would impact community safety, or do you have any statistics as to why those specific charges?

Mr. Jones:

Right now, the offenses that are excluded, our argument is that home invasion, burglary and to even some extent possession of a firearm by a prohibited person, those types of offenses belong on that list, maybe even animal abuse as I mentioned earlier. Our argument is that these are offenses that even though the person may have had model behavior for a year, because of the underlying nature of their offense we want to supervise them in the community longer to make sure that they have changed their behavior.

Chair Nguyen:

Ms. Bertschy, do you have any other follow-ups or does that answer your question?

Ms. Bertschy:

Yes, that answered my question. Thank you.

Chair Nguyen:

Does anyone else have any other further questions or comments regarding this topic? I did have one other follow-up. You had mentioned—and I tend to agree with you, I don't

think it was our intent to over-criminalize marijuana while decriminalizing some of the other types of possession of dangerous drugs or illegal drugs. How have your offices been doing that? It obviously sounds like you recognize the legislative intent there, but do you have any recommendations or have you seen any trends, or is it just too early to know where you have concerns?

Mr. Jones:

Thank you, Chairwoman Nguyen. I don't have any specific recommendations now other than just to tell you what our office is doing. We would be willing to have a discussion with you and this Committee on how you want to treat marijuana penalties going forward.

Chair Nguyen:

Thank you. I have one more question, and it's probably better addressed by maybe Parole and Probation because it kind of overlaps with some of the presentation that Mr. Jones did as well as Chief Carpenter. There were some suggestions for certain crimes that were listed in there, and I think you had an opportunity to look at them. Have you seen any of those problems? I realize that this statute is only months in the making, or is it just too soon to have any kind of opinion on those or have any data collected about whether or not that's necessary or not?

Chief Carpenter:

Are you asking about the specific things that Mr. Jones put on?

Chair Nguyen:

Yes. He had mentioned burglary, residential burglary, I believe he mentioned possession of a firearm by an ex-felon and potentially animal abuse felony charges.

Chief Carpenter:

I don't have any statistical information, obviously. We could look into that. I really do think it's too new since it's only been a few months, but we could look at it in the past and see how many cases we dealt with in the past and maybe project that forward.

Chair Nguyen:

It may be something that we can look at in conjunction with CJI to see what kind of information they might be able to pull from the previous data collection. Thank you, I appreciate that.

Chief Carpenter:

Thank you.

Chair Nguyen:

Okay, I think we are ready to move on to the next item. Thank you, Mr. Jones, for your presentation. I appreciate your time. Director Daniels and the Nevada Department of Corrections, I know that you've been patient there. I believe you are up next. Are you guys ready to go?

Charles Daniels (Director, Nevada Department of Corrections):

Yes, we are ready to go.

Chair Nguyen:

Okay. Thank you, Director Daniels. I will turn it over to you.

Director Daniels:

Good afternoon, Chairwoman Nguyen and Commission members. Joining me is Brian Williams, Deputy Director of Programs.

As of September 30, NDOC has an inmate population of 11,327. This number includes transfers to local jurisdictions. Since the onset of the emergency declaration, NDOC immediately transitioned to modified operations by designating all NDOC employees as essential, restricting visitation and restricting non-NDOC employees' access to mitigate the risk of COVID-19 entering our inmate population. To further prepare NDOC's response to the pandemic, we implemented emergency operations centers at every major facility to begin logging in all activities to include possible exposure of staff and offenders. Through coordinated efforts of our staff, NDOC has been successful in limiting COVID-19 from reaching our inmate population despite having 140 employees test positive to date, of which only 26 are still positive. NDOC currently has only four inmates currently testing positive for COVID-19 with all housed in our intake units. A total of 38 inmates have been tested positive for COVID-19 since May.

NDOC has presented our strategies to combating COVID-19 with the Sentencing Commission, ACLU and the federal courts. Continued partnership with the Nevada Division of Forestry to provide firefighting assistance throughout Nevada and California is ongoing, and we see our relationship as a partnership. We further developed our agency mission, vision, goals and our core values and we're focusing on the Governor's mission to include public safety, staff safety and offender safety. Due to limitations surrounding COVID-19, NDOC unlike most other agencies does not have the ability to close their operations and offices as a matter of public safety. With national travel restrictions and

many agencies' ability to work remotely, NDOC has only been able to offer staff limited training opportunities.

Some of our challenges will be addressed in the presentation by Mr. Williams. We will have restrictions on offender movement, reductions of total number of staff and offenders in group settings. We further have travel restrictions. We also have other state agencies teleworking for non-essential employees, which obviously limits their ability to come within a secure perimeter of our operations to address the inmates. We also have prison entry restrictions for all non-NDOC staff, visitors and volunteers, trying to get obviously mitigation of COVID-19 spread within our facilities. Also, we have some technological challenges to include equipment and infrastructure.

At this point, I am going to turn this over to Brian Williams. Once again, he's our Deputy Director of Programs.

Brian Williams (Deputy Director of Programs, Nevada Department of Corrections):

As we travel this road of prison reform, our staff have faced numerous challenges. However, they remain resolute in ensuring implementation of AB 236. As you review the following charts, you will see more inmates have been released than admitted ([Agenda Item VII C](#)). This is due to the safety restrictions placed on both private and public entities to combat the spread of COVID-19. Courts throughout Nevada were not processing their normal volume of cases and thereby not sentencing individuals to incarceration. As a result of that fact, the number of offenders intake received to NDOC by jurisdictions throughout Nevada has been reduced during the past 6 months. In addition, due to the Division of Parole and Probation's proactive utilization of graduated sanctions for individuals under their supervision, the NDOC has seen a noticeable reduction in the amount of parole violators being returned to our facilities. Both of these factors have directly impacted the amount of individuals received and incarcerated within NDOC facilities. I would also mention as it relates to releases, as the Director stated earlier, all NDOC staff have been identified as essential, therefore all programs continue to run, allowing inmates to continue to receive merit credits and not affecting their release date. I would also add, due to the implementation of AB 236, NDOC expects a decrease of prison sentences in the drug, property and other offenses group. Assembly Bill 236 reduces the penalty for certain crimes from category B to category C felonies and revises provisions relating to burglary by increasing the threshold and decreasing the penalties for various theft offenses. This should effectively send fewer offenders to prison.

NDOC is working to establish a change in its classification system at this time. Upon implementation of the new measurement variable classification model, NDOC projects close custody male bed needs will decrease and will be redistributed to medium and minimum custody beds. The majority of the change will come from change in protective segregation from a custody close to a designation allowing for current protective segregation population to be classified according to their corresponding commuted score custody. As the Director mentioned earlier, the fundamental purpose of AB 236 as it

relates to the Nevada Department of Corrections is to focus on prison space for serious and violent offenders, reduce recidivism, strengthen supervision practices, improve release and reentry procedures, provide data-driven information specific to individuals with behavioral health needs. During this time, NDOC has worked closely with Victoria Gonzalez, Executive Director of the Nevada Department of Sentencing Policy in implementing directives required by AB 236 and the Nevada Sentencing Commission.

AB 236 roadblocks, challenges, issues, concerns that we've had as it relates to COVID-19: NDOC continues to address the emerging and potentially long-lasting health crisis represented by COVID-19 and how it has impacted our daily operations to include training, travel, access to services ([Agenda Item VII C](#)). Some of those are—since March 2020, many agencies have been either working from home, limited schedules or on administrative leave. It has been challenging to collaborate and retrieve information due to delays experienced during this pandemic. Due to the extensive impeding budget and staff reduction, all agencies will have fewer staff dedicated to the implementation process, have experienced challenges participating in meetings of collaborative efforts, many platforms unavailable, unauthorized for NDOC and other agencies. This results in a combination of phone and video attendance that is often not conducive to the meetings. Additionally, NDOC does not have video or audio capability within our new workstations. Other challenges: transmission issues, bandwidth, human error, outside factors, responses, etc.

Training for correctional staff: section 89, which is one of NDOC requirements, principles of effective intervention, effective case management. Although we have successfully trained all NDOC staff in CCP (core correctional practices), we have yet to initiate training and intervention or case management. These trainings, however, are tentatively scheduled for the first week in November. During that training, UCCI, University of Cincinnati Correctional Institute—for the month of November, we will be training 60 end users and 12 will be selected as trainers. CJI (Criminal Justice Institute) and UCCI both issued travel restrictions for their respective agencies when the pandemic hit a peak back in March, and now we're finally going to get this training completed in the month of November.

Additional requirements as it relates to section 89 of Assembly Bill 236: victims of domestic violence and trauma. This training has been completed with two mental health staff and one training staff. However, three trainers are not sufficient and we are requesting additional trainers. Trauma-informed criminal justice responses can help to avoid re-traumatizing of individuals. This increases safety for all, decreasing the chance of individuals returning to criminal behavior and supports the recovery of justice-involved women and men with serious mental issues.

Individuals with behavioral health needs: a BDR for NRS 209.4236 is being revised to delete therapeutic communities and replace with substance use or co-occurring disorders in accordance with the Diagnostic and Statistical Manual of Mental Disorders, which is the current best practice and standards ([Agenda Item VII C](#)). Some of our long-term

issues: ensuring sustainability to maintain enough trainers through collaborative efforts. We're currently collaborating with NAMI (National Alliance on Mental Illnesses) and the Center for Behavioral Health on programming and outreach services. Additionally, NDOC submitted a bill draft request, which I just mentioned, that changed from therapeutic community to the substance use or co-occurring disorders.

Individuals with both physical and intellectual disabilities: we will be working with NAMI to implement this program. We have been in contact with them and did confirm earlier this week, Monday, that we will be scheduling a training for mental health staff as well as substance abuse staff to initiate this training. The long-term issue here is ensuring sustainability to maintain enough trainers through collaborative efforts, currently collaborating with NAMI on programming opportunities.

Reentry short-term issues: the reduction of staff due to both the state hiring freeze and COVID-19 protocol. Unfortunately for us, during the months of April and May we had five vacancies of four Program Officer 2 and one Program Officer 1. We did submit the justification to be filled to the GFO (Governor's Finance Office). They have yet to be approved. These five positions will be critical in the implementation of our reentry staff to have plans for each offender no later than 6 months before they are released. In addition, we picked up additional duties from the Department of Health and Human Services (DHHS) as it relates to Medicaid applications, which we had staff from DHHS in some of our facilities. We assumed this responsibility. We got no additional staff, so we're kind of desperate to get those five vacant positions on board so we can start implementing this. However, our reentry staff has required additional responsibilities. We have rearranged our resources to ensure all mandates are adhered to as it relates to AB 236.

Another section in early release of—offenders must have a photo ID ([Agenda Item VII C](#)). We're currently adhering to the photo ID, the clothing, the transportation costs, but the release to transitional living facilities—during that time, all transitional living facilities were not accepting inmates during the COVID-19. They're slowly opening their doors back up. Places such as Freedom House and WestCare, etc., they are beginning to take our inmates again. However, at the time of the peak of COVID-19 back in March, they shut their doors and we had no place to send these inmates. Completed enrollment and application for Medicaid/Medicare: we are adhering to that. Again, we had to rearrange some of our resources and put our staff on that task as it was a priority, and again, once we get those five positions filled, we'll really be able to attack it full strength. Thirty-day supply of prescribed medications is something that NDOC has always done, so there were no issues there.

Performance metrics, NDOC requirements, implementation issues, COVID-19 and state hiring freeze—our quality assurance and program officer positions to assist in ensuring data metrics. Our AG's (Attorney General) Office—NDOC contracting had concerns regarding the verbiage of the contract as it relates to these contracted positions, i.e. being guided by the State of Massachusetts' statutes and not NDOC's, so we're working through that as we speak with our AG's Office and our contracting department, but the

same ability of quality assurance, infrastructure to maintain consistency statewide—while the quality assurance management and end user guide exists, a need for additional modification may be required. Finalization of notice updates to include final data pieces required to be submitted to the Sentencing Commission. The quality assurance position is one of the most important positions that we need right now as they will ensure the fidelity and integrity of all our programs that we're implementing at this time.

Track certain performance data related to Assembly Bill 236, short-term: NDOC sub-award contract approval from the AG, which I just mentioned, and contracting. The risk and needs assessment must undergo a validation study every 3 years. Short-term issues: none at this time. Long-term issues: reviewing the outcome of the UCCI validation of ORAS (Ohio Risk Assessment), same as the NRAS (Nevada Risk Assessment), the NDOC infrastructure and staffing to facilitate the validation process of quality assurance specialists and program officers to be provided via grant funding. I want you guys to understand, these two positions are critical to the operation and implementation of AB 236. However, they're only going to be funded for one year, so we're looking to try to find ways to extend that or get these positions permanently under our general fund, so we'll continue to work towards that.

Administer a risk and needs assessment of each offender. The results are used to guide programming and placement decisions ([Agenda Item VII C](#)). Short-term issues: none at this time. Long-term issues: consistency of utilization throughout NDOC and a review and incorporation of a gender-specific version of the Nevada Risk Assessment, NRAS. The women's risk and needs assessment will require the same long-term implementation and system upgrades that NRAS requires. Again, these positions that's going to oversee that as far as our quality assurance positions—1 year, and this is going to take 3 years to make sure it's implemented correctly. Risk and needs assessments must undergo a validation study every 3 years, as I mentioned—reviewing the outcome that a UCCI validation of the ORAS, same as the NRAS.

Medical release, section 91, NDOC requirements: additional methods for medical release to be requested and submitted to the Director as it relates to a medical release, and requirements in section 91 of AR (administrative regulation) 523.04 has specific criteria in accordance with NRS 209.3925, and some of those criteria has to do with two licensed physicians—the inmate doesn't hold a threat to public safety, that the inmate will die within 18 months, which was increased from 12 months to 18 months—not serving a life without the possibility of parole, not sentenced to death, a letter of recommendation to the NDOC Director for approval, release of medical information to victims of his crime, county commissioners must be notified, Parole and Probation notification and decision of release plan, approval of the advisory board. That's a lot, and checking our list of inmates that meet this criteria, as of today we have zero, but if you look at the process and requirements in NRS as well as our AR, this will be difficult to adhere to as far as finding inmates that meet the criteria for a medical release.

Finish line: before the Director closes out, I'll give a special thanks to the University of Cincinnati Corrections Institute, the Criminal Justice Institute, the Substance Abuse and Mental Health Services Administration, the National Alliance on Mental Illness, Sentencing Commission, Department of Health and Human Services, Board of Parole Commissioners, Parole and Probation, and the Department of Motor Vehicles as we travel this road of prison reform together. Thank you.

Director Daniels:

Once again, I'd just like to thank the efforts of all of our partners. These are very challenging times, and of course there's some unique situations when you look at who can come in, who cannot. There are many things that are happening right now, and it's been great. I also would like to once again extend my gratitude to Victoria Gonzalez, the Executive Director. She has done a tremendous job and I really appreciate her efforts in helping us move through with the changes in AB 236. Madam Chair, are there any questions you have of me?

Chair Nguyen:

Just briefly, is it fair to say that it's just too soon to see or predict what some of the effects are, and then obviously throwing in a global health pandemic has made some challenges. Have you been able to add to—have you received any funds regarding the CARES (Coronavirus Aid, Relief and Economic Security) Act to eliminate some of these things that are clearly COVID specific related?

Mr. Williams:

Specific to the CARES Act, not as it relates to AB 236.

Justice James Hardesty (Nevada Supreme Court):

Just two questions. One: many of the issues identified in your slides relate to positions, needing positions. They're either frozen or there is some other issue related to the positions. Are all of the positions listed in the slides those that are provided for in your existing budgets or are some of these positions new or enhancements to your budget associated with AB 236 implementation?

Mr. Williams:

Justice Hardesty, two of the positions are through the sub-award that we are waiting for. We're going through the AG and our contract monitoring to get the verbiage worked out in the contract to bring them on board. The other five positions, the program officer positions, those are general fund positions that are waiting to be approved by GFO.

Justice Hardesty:

Okay, because the sub-award hasn't been funded yet, but I understand that it's close to being funded, so that addresses two of those positions, right?

Mr. Williams:

Yes, sir.

Justice Hardesty:

All right. I'd like to mention to the Advisory Commission how much communication has been developed between Director Gonzalez of the Sentencing Commission and the Director and his staff at NDOC. I receive weekly reports from the Director of the Sentencing Commission and she repeatedly thanks and expresses appreciation to you, Director Daniels, and your staff for the great work you all are doing, so I want to thank you publicly for that effort.

Director Daniels:

Thank you very much, Justice Hardesty. I really appreciate those comments. My staff worked extraordinarily hard, and so once again, thank you. It's greatly appreciated.

Ms. Welborn:

Thank you, Chair Nguyen. Hello, Director Daniels. It's nice to see you, to meet you virtually. We've met by phone, and I do appreciate that you sat down with us and really described the challenges that you are facing there at the NDOC. My questions aren't really too AB 236-related, but definitely decarceral issues. We've had some concerns about recreational programming. I think you described that a little bit, but I think it would be helpful for the record for us to understand the challenges with COVID-19 in providing typical programming and how that might affect a person's path to release, because they might have been engaged in programming that they're no longer able to access because of the social distancing guidelines that you've imposed and whether or not there is a plan to add any other creative perhaps in-cell programming or other programs that folks can engage in in order to get on track.

Mr. Williams:

Thank you for your question, Ms. Welborn. Our programs have continued, although they have been limited and reduced as far as the gathering. All of our program staff there are NDOC staff that were identified as essential, so they've been coming to work since this pandemic hit and have continued their programming schedules, and we just submitted reports to the Director as it relates to the number of programs that are continuing to run. Some of the challenges that we have had is with the outside organizations such as the

school districts and the colleges that frequently visit our facility and provide services. We're currently working on a protocol to eventually get them coming back into our facilities. We've identified three facilities that will be the pilot for this as we allow non-NDOC employees back into our facility, so the only programs that have been interrupted thus far have been the educational ones.

Ms. Welborn:

Thank you. I appreciate it. That's all I have.

Director Daniels:

I will also add, we're very conscientious of the limitations that have been placed on us due to COVID-19 mitigation, but I will tell you we are working hard to try to, under these current circumstances, make this work. We don't want to deprive our offenders of opportunities to not only get out-of-cell and out-of-unit time but also to continue with their educational and vocational training aspirations. We meet on it regularly. Obviously a lot is dictated by direction from our medical director, but we understand the need for us to at least pilot some opportunities and see how it works out. So once again, thank you for your question and I appreciate the fact that we are really engaged and trying to move ahead in this endeavor, so thank you.

Judge Jacqueline Bluth (Eighth Judicial District Court):

Thank you, Chairwoman Nguyen. Thank you so much, Director Daniels and Director Williams. A quick question for you. Down in Clark there was a period of time, and I'm sure it was the same in Washoe as well, where inmates who were incarcerated at the Nevada Department of Corrections were not being able to be transported for their procedures that were happening down in court. I haven't seen that as much lately, but I just wanted to make sure that we were aware of—are transports regularly being done now, and is there a certain amount of time due to lack of resources that you may have right now that you need to get an inmate to court? I just want to make sure they have the ability to make their court appearances and things like that.

Director Daniels:

I'll address the issue concerning the inmates' access to the courts. We have worked with the courts, and primarily anything that we can do over video we do over video. The courts requested that we find an alternative method other than to transport inmates from a secure facility down to their facilities. Primarily their staff work from home. They don't really run a lot of court operations, and when they do it would be under the guise of it being somewhat emergent. I can't speak to what that is, but it has been significantly limited, and we appreciate the fact that we've been able to accommodate almost anything and everything that is done in the courts via video. If there are extenuating circumstances, yes, we will transport our inmates. Our staff and our inmates are wearing appropriate PPE

(personal protective equipment) for the situation and when anyone exits our institutions and come back, we will put them in an intake unit every single time and keep them for a period of up to 20 days while we give them another test for COVID-19 and then we await the results. It's a cooperative effort with the courts, and for any other reason, quite frankly, why any offender would have to leave the secure confines of our facilities, we take great care to know who they are, why they are going and we work with the requesting agency to ensure we do the best we can by our inmate population and our staff. Thank you for your question.

Chair Nguyen:

Do we have any other questions? I don't see any. Thank you so much, Director Daniels. I appreciate you and your staff giving us this update. I'm sure in the coming months and the next year or so we'll have even more information. I know that you've been working with the Sentencing Commission. I'm on that as well, as are many other members here on this Commission. So, thank you for your time, and with that we will close out agenda item VII. I'm going to move back up—

Director Daniels:

Excuse me, Chairwoman Nguyen? I'm sorry, I didn't want to hold this up, but I think I'd like to get ahead of some of the questions that were asked or some of the concerns expressed by the callers. At a minimum, I would like to provide some basic information so there's some understanding of where we are and how we got here, and that way, although we will respond to every issue in writing, that you can be rest assured, but let me give you some basic information to help those that are somewhat wondering what's going on. I appreciate the concerns expressed by our callers referencing the change in sequence of deductions regarding provisions specific to Marsy's Law.

Marsy's Law was voted on and approved by the citizens of Nevada and confirmed in both the 2015 and 2017 Senate joint resolutions. The intent and spirit of Marsy's Law was prioritization of victims' rights as articulated in the Nevada Constitution and a meaningful commitment to the victims of crime. Marsy's Law prioritized reimbursement in the following order: one, court order; two, child support; and three, to the victims. Only 18 percent of Nevada Department of Corrections' inmates owe restitution, and that equals to about 2,071 of our inmates. Once again, that money goes to the victims. This is not inclusive of fines. This represents roughly 18 percent of our inmate population, and we understand and we hear what the families of the members that are incarcerated are stating. It is not going on deaf ears. But I did want to bring some statistical facts and balance to many of the complaints, and once again, I thank you for this opportunity, and to reiterate, regardless of what was stated previously, you can expect that we will respond to the Sentencing Commission in writing to each and every one of the concerns of the people that called in and/or wrote in today. Thank you, Chairwoman Nguyen.

Chair Nguyen:

Director Daniels, thank you for that. I would encourage you, just like other members of the public, unfortunately, because it is not a part of our agenda to discuss some of those issues, to include any responses that you might have in the public comment section, and it definitely is something that obviously was something that got brought up, and so it's something that we can consider perhaps going forward either in this Commission or with the Sentencing Commission as well. I'd encourage you to reach out to both of those chairs. I see Justice Hardesty is here, so you might be able to reach out to him if you want to have further discussions to be able to talk about that, but I appreciate that.

With that, I am going to close out agenda item VII and move on to agenda item VI, so I'm backtracking. This also came out of public comment. We received lots of public comment, and I'm sure all the members of this Commission also had the opportunity to review all of the letters and documents and other things that were presented that had to do about possible retroactivity of certain parts of Assembly Bill 236. In the special session there was some—we did address some of the intent with respect to when probationary terms would start and when those would be ordered, so I think it's appropriate—I asked Len Engel, the Director of Policy and Campaigns, from the Crime and Justice Institute to present a brief overview of information just to give the members some background on what could possibly be done, what this might look like, where it would include, just to get that conversation started, and so I will turn this over to them if they are ready to go.

Leonard Engel (Director of Policy and Campaigns, Crime and Justice Institute):

Chair Nguyen, I am ready to go.

Chair Nguyen:

I will remind you to try to keep it brief.

Mr. Engel:

I will do that. I've watched this for the past few hours and noticed that my fellow presenters have been very good on the timing. I will skip over some of this stuff and focus on the work we did. We looked at two things and focused on how the policies in AB 236 that might be run retroactive and then we looked at how some other jurisdictions have handled retroactivity of criminal justice policies ([Agenda Item VI](#)). The other jurisdictions we looked at largely focused on a handful of mechanisms to apply policies retroactively. These are focused primarily on parole eligibility, probation and parole revocation terms, sentencing reclassifications, mandatory minimums and habitual offender enhancements, and they do it through a few different ways. These were the items in AB 236 that we saw a potential for being run retroactive. There is a lot of characteristics within each of these that would raise some flags and would need to be thought about, and we're glad to have a follow-up conversation as you move forward, but I'll skip this portion. Here's some additional ones.

Now I'll focus on the other jurisdictions we looked at. The first jurisdiction is the federal system, the federal First Step Act which was passed by Congress and signed into law in 2018. It allows sentencing changes related to crack cocaine and powdered cocaine disparity. The Fair Sentencing Act of 2010 to be run retroactive—the Fair Sentencing Act applied only to individuals convicted on or after August 3, 2010, so the retroactive application in the First Step Act allows anyone sentenced prior to that date to apply for resentencing. However, this is not automatic, an automatic application of a lesser sentence. A motion for resentencing has to be filed. The judge will consider resentencing based on the merits of the case. A judge cannot obviously reject a resentencing request. One last thing on the federal First Step Act: they have collected data and they have reported some first-year analysis, and it shows that retroactive applications of the Fair Sentencing Act resulted in sentence reductions for more than 2,000 individuals with an average reduction of 6 years per sentence.

Oklahoma passed a state question—it's a ballot initiative—in 2016 that reclassified simple drug possession from a felony to a misdemeanor. The Legislature followed that up in 2019 with passing House Bill 1269 which made the reclassification retroactive. It established a process by which the Pardon and Parole Board would consider a commutation request for anyone who was serving a possession offense that was a felony and would now be a misdemeanor. The Pardon and Parole Board would then decide whether to approve the commutation. If it did, it would make the recommendation to the Governor and then the Governor would either approve or reject the commutation. Similarly, there has been an analysis of this procedure of this policy, and the commutation in Oklahoma resulted in the single largest commutation in US history, and 527 people had their sentence commuted in November when the new law went into effect. Then in January, the Governor approved an additional 147 commutations.

Louisiana passed a comprehensive sentencing and supervision bill in 2017. Among the provisions were changes that applied to those serving a sentence on the effective date of the act, allowing them to receive earned compliance credits to reduce their term of probation or parole. The law also allowed these individuals to receive the benefit of supervision and revocation changes similar to those passed in AB 236 related to revocation terms and alternative sanctions. Unlike the other examples, the Louisiana provisions automatically applied to those individuals who were serving their sentences at the time the law was passed. Louisiana also collected data. They have about a year of analysis done, but because of the significant number of policies that affect individuals on supervision they haven't been able to identify specifically the effect of the retroactivity. They have formed a couple of initial conclusions. The supervision caseload sizes have been reduced from 149 cases per officer in 2016 to 123 cases in 2018. This is largely attributed to the ability to earn reductions to supervision terms for complying with supervision conditions, and also the number of revocations for technical violations dropped by more than 55 percent and the amount of time incarcerated as a result of a revocation dropped from 67 days to 23 days.

In 2016, Maryland established a safety valve which allowed judges to depart from imposing a mandatory minimum sentence for various drug offenses. The following year, the Legislature applied the safety valve retroactively, allowing judges to review cases that had resulted in a mandatory minimum sentence. The law included a presumption in favor of the safety valve requiring the state to show that the mandatory minimum would not result in substantial injustice to the defendant and that the mandatory minimum is necessary to protect the public. We have not been able to find any data as to how this policy has been implemented.

Delaware revised their sentencing policies for those convicted under the habitual offender law that removed the mandatory life sentence for a third violent felony for which drug dealing is one. It also delisted drug dealing as a violent crime and then lowered the mandatory minimum sentence if a fourth felony conviction was a violent crime. These changes were applied to anyone serving an applicable sentence on the effective date of the act and allows those eligible to apply for a sentence modification under the new sentencing guidelines. Similar to other states, the judge can modify the sentence as requested or reject the modification.

Lastly, California passed Proposition 47 in 2014, and in 2017 it was applied retroactively. The law reclassified drug possession and certain theft offenses from felonies to misdemeanors. The retroactive application requires the court to resentence the person for a misdemeanor unless the prosecutor can prove that doing so would present an unreasonable risk of danger to the public. An additional component of the California approach is that it allows the resentencing petition to be filed for people that have long since completed their sentence in order to remove the felony from their criminal record.

That's it. If I can answer any questions?

Chair Nguyen:

I have a question. Do you have any information from these states on the costs or mechanisms of how you went about resentencing potentially tens of thousands of people?

Mr. Engel:

We can look into it. We don't have a whole lot of the process costs. We were close to the circumstances in Oklahoma while they were being implemented. The Parole Board basically established a whole new caseload to manage this population, but a good portion of the work was conducted by the DOC (Department of Corrections) which was able to figure out exactly who was affected by this change, by the retroactive change, and determined who needed to be processed more quickly because they were nearing the end of their sentence, and then they staged this over several months to make sure that they had parole hearings and the process in place for when the law kicked in. I'm not sure what the costs were. I don't know whether they hired additional staff at the Parole Board or the DOC was able to do this more effectively through technology. We could check that

out. I'm not entirely sure how this affected the court system in the states where resentencing was required.

Chair Nguyen:

I don't know, maybe Director Daniels, if he is still on—I know that the Governor recently had an order talking about marijuana convictions in particular and was wondering how that was taking place or if there needed to be more clarification and more money, obviously, to enact some of those policies.

Director Daniels:

Thank you for the question. I am not prepared to articulate a policy for this issue, and hopefully I'll have an update in the near future. Thank you.

Chair Nguyen:

Thank you, I appreciate that. Like I said, I saw this as the beginnings of the discussion on this topic. I think it is a very large topic and there's lots of different directions that our state could choose to go in, and so I appreciate it when I'm listening, and I'm sure we'll have more input. Are there any people that have questions of that limited presentation?

Mr. Jackson:

Thank you. Mr. Engel, as part of the states that you used as examples, did any of those states have a Marsy's Law? I'm aware of California, and theirs is a little bit different than the other states you showed where that particular law reduced felonies to misdemeanors and gave a process by which an inmate could petition for a release. But under Nevada's Marsy's Law from SJR (Senate Joint Resolution) 17, which was approved by the voters in 2018 by a 61 to 38 percent margin, subsections (h) and I think (k) of those are very specific, and now the constitutional right of the defendants to be notified throughout. Do you know in any of those states that do have Marsy's Law who's doing that noticing in connection with any type of release as a result of a change in the law at the legislature or through a petition process?

Mr. Engel:

I do not know that.

Chair Nguyen:

Does anyone else have any further questions? Nothing? Okay. Thank you so much, Len. I appreciate you taking the time to give us a brief overview on what we have done starting with President Trump's federal legislation and then moving into some of those states. I think that is interesting for us to start the conversation about.

With that, I will close out agenda item VI and move on to agenda item VIII, the presentation of the Nevada Criminal Justice Information Sharing System.

Julie Ornellas (NCJIS Modernization Program Administrator, Records, Communications and Compliance Division):

Good afternoon, Chair Nguyen. I am very, very pleased to be here today—and of course, members of the Commission. I would like to present to you information regarding the NCJIS (Nevada Criminal Justice Information System) Modernization Program and the Nevada Criminal Justice Information System. I am with the Nevada Department of Public Safety with Records, Communications and Compliance. In the interest of time, I'll try to cut out some of the maybe non-important points or things that maybe, if you have questions, you can ask me.

The Nevada Criminal Justice Information System is basically our current system ([Agenda Item VIII](#)). It's comprised of the Message Switch, known as Justice Link. It is the central highway for criminal justice information sharing. It's used to obtain criminal justice information for investigations, intelligence, arrests, prosecution, sentencing, record seals, parole, probation, detention centers for query information and much, much more. It's also used as the highway to share information on our hot files. We have Nevada hot files, which are warrants, protection orders, DMV (Department of Motor Vehicles), registered sex offenders, parole and probation, CCWs (carry concealed weapon), our Nevada Offense Codes (NOC) and criminal history records. We also have access to the national files through NCIC (National Crime Information Center), which is warrants, protection orders, DMV, sex offender information. Again, there's a whole list of very important files and information. We also have an interface with the Las Vegas—it's called SCOPE (Shared Computer Operations for Protection and Enforcement). It's their shared system, which we get very valuable information, particularly information that's in their SCOPE system, prior to when the Repository was implemented into law in the 1980s, so that's a really critical system for us to have access to. We also have access to the International Justice and Public Safety—it's a network so we share information with other states and they share information with us through that channel. Again, the current system that we have is really important for public safety and has very critical roles for various elements of our business.

One of the other very critical components of our business and public safety for our civil side is we have multiple civil backgrounds, and one of them is the civil fingerprint process. So, for employment, licensing, adoptions, foster, childcare, when they submit fingerprints that are required by state statute or federal authority, the system that we currently have, our Justice Link system, is used to query various types of information, and particularly criminal history and our CCH (computerized criminal history) to provide the results back. It's also a highway for us to get the federal results from the FBI (Federal Bureau of Investigations), so based on statute again or federal authority. We also have our very critical business unit, the Brady Point of Contact Firearms, which we do the NICS (National Instant Criminal Background Check System) background checks as the point of

contact for the State of Nevada. The other is our civil name check for employment and volunteers. It's a name-based system that we use, and it's based on NRS 179A.103. We do background checks for things like employment screening service companies, gaming, gaming-type facilities for valet parking, that type of thing. I'm going to skip over the number of agencies just to save a little time.

This slide here gives a little bit of an overview of the types of transactions and how critical the switch is in the criminal justice system. On the left-hand side it shows you the Justice Link, so these are the investigative queries. Again, it includes any of the civil background, so over 85 million transactions go through Justice Link. Well, in 2019. Again, that's a lot of transactions through that highway of information sharing for public safety purposes. On the Nlets (International Justice and Public Safety Network) side within that same left-hand box, that's the—4 million is the total for 2019 where we have shared information with other states when they've queried against our system or we've received that information that we've queried from their system.

On the right-hand side is our civil background processes and the total number for those types of backgrounds in 2019. So for example, on the Point of Contact Firearms we did 102,392 in 2019, and based on what I am understanding this year—we haven't finished out 2020, but it has increased quite a bit since COVID. The firearm background checks have gone up a lot, so very important system to support those types of backgrounds. Our civil fingerprint backgrounds are, again, foster, adoption, childcare, those types of things: over 261,000 in 2019. We see that increase pretty much every year as new statutes are passed through the legislative process or if we have new federal authorities that are offered that may fill a gap in our state statutes. For example, Adam Walsh Act, National Child Protection Act, those types of things that we hear about, and we may have gaps in services or statute authority and those come through this process. The civil name check is 51,390. Again, a little bit lower. A lot of people like fingerprint-based background checks. Sometimes they do the name-based first just to do a cursory check of an individual, and then if something is questionable they may have them follow up with fingerprints. So, just an overview there of the numbers.

Now, an overview of the modernization that we are really excited about. It's a multi-biennia and multiple-phase effort. We have multiple increments and iterations, so it's going to be kind of a phased approach just because the system is so complex. The modernization is going to be replacing several complex and critical systems. The switch right now, like I was talking about, is our current switch that we have through a company called Norsoft. We are replacing that switch, and I'll get into why in the subsequent slides. Some of our hot files, our computerized criminal history, our CCH system that houses all of our criminal history, offenses, dispositions, all the court information. Some of the other really exciting things that we are implementing through the modernization is related to our civil processes. We have very manual processes when it comes to generating the responses to the fingerprints. We have to mail them in the mail and it takes quite a bit of time to get that information compiled and sent out in the mail, and so we have some really wonderful

tools that are going to be coming through the modernization. Again, those are going to improve efficiency to our customers and the public for that expeditious public safety.

Some of the goals and objectives of the Modernization is we are going to move the criminal justice applications that we currently have in our current switch from a tightly woven interdependent technology to a combination of vendor-supported. What that means is our current environment has—the switch itself should act as just a highway. However, our current system was extensively coded to act as applications, not just a highway for passing information, and so when we try to possibly make a change to one application within that code it can affect many others, and we don't want to have that type of system dependencies anymore. So, that's one of the things that we are going to do is we are going remove that spaghetti bowl, if you will. We're going to also implement an enterprise content management system, which is again removing a lot of those manual processes. Information will come in and can connect to what we call "runs," background checks based on character recognition, so any supporting documents. If we try to get police reports or any type of court documents, it can connect it to what we call a "run" and it will handle all that information coming in electronically and attach it and save it in the file versus hard copy documents.

We are going to have a web-based portal, and so what that will do for us is—so for example, criminal history results that we generate through fingerprint submissions, instead of mailing those, the account holders will be able to log into that portal under a secured environment. We call it Identity Access Management, and they'll be able to retrieve the results. As soon as we are able to process those fingerprints and run those results, they will be able to retrieve those results through that portal. The other benefit that the portal will provide is to our Brady Point of Contact Firearms. Gun dealers, they will be able to—rather than sitting on the telephone, they will be able to go in and request their firearm background checks through the portal, and then they'll go into a queue for review if they have criminal history or any possible disqualifiers. What's wonderful about this portal and we're very excited about is other states use a similar type of tool, and based on time studies, we found that about 32 percent of the gun runs that gun dealers may call in and sit on hold for quite some time actually have no disqualifying information, and those are clean runs. They could have been returned immediately if they had not had to sit on the telephone, so that's going to be a benefit for them. Having this portal will not only help with the customer service and public safety, getting that more of an immediate, timely response will also reduce cost of postage, paper, toner. It will be a great timesaver for our internal and external customers.

I'm trying to cut some stuff out, so this slide was really just kind of giving a little bit of examples on some time studies we did, again on efficiencies that we're going to get just for the Point of Contact Firearms call centers. We have very labor intensive—our gun dealers, and this was in 2019, we were sitting on the phone for an average of 6 minutes and 57 seconds per call, and it's gone up greatly because of the increased volume, and so we would be resolving this issue that we've had for many years and staff wouldn't have to sit on the phone and answer those calls. They can pull the information out of a queue

and again make those determinations as quickly as possible. Our current process of the manual phone system, there is no lights-out process for those runs that don't have any kind of criminal history or disqualifiers. Again, the new process would implement that lights-out for that approximately 32 percent of all background checks processed annually can just go through, go in, query, and if there's no returns on any of the files it hits, it would just return it back to the portal to the gun dealer as a proceed. I put some other stats here. Again, we looked at our phone system cost to see in 2019 what the cost was for the phone system, so we would have cost savings there once we get everybody—get the gun dealers transitioned over to the portal. It would also save staff time not sitting on the phone. On average based on the time study, almost 3,000 hours of a staff's time they could dedicate to other types of tasks that we have in the Brady Point of Contact Firearms Unit. There are several what we call "side jobs," so that is going to benefit our staff members. Again, that's just some of the statistical data that we have.

Just a little bit of information on the progress and where we are: the program management office was established in September 2019. We have hired eight permanent staff and eight contracted staff. The contracted staff consists of programmers, project managers, program manager, and so those are all needed to support the functions that we are going to need to have in place as we transition. We went through the RFP (request for proposal) process for the modernization. It was very extensive, very time consuming, but encompassed all of our technical and functional requirements. That was released July 26, 2019. The Unisys Corporation, they were selected to be our NCJIS solutions vendor March 4 and the contract was approved June of 2020 for a July 1 start date. We also did an RFP for—a lot of folks call it IV & V, but we went more of a quality assurance and a senior advisory because it's so technical to help guide the team and to ensure that on the senior advisor side that we were making very sound technical decisions and making sure the vendor that we selected is bringing the best solution for the state. The RFP also included a change manager. Again, our customer base and user base is very broad, again, criminal justice users, civil users, gun dealers, so how we approach change management is going to be very, very important to get everybody on board and get them transitioned effectively. MTG Management Consultants, they were selected to fill the quality assurance senior advisor and change management role. They brought a team. That contract was also approved in June of 2020 and they also started on July 1, 2020.

Right now we're working on—Norsoft Consulting is our current vendor for our current system, but as you can imagine, transitioning off of that system on to the new modernized system is going to be a big effort, and there's a lot of knowledge transfer and a lot of partnership that we need to have with them. We have just finished drafting a contract to have them help us with that knowledge transfer and the phase-out efforts. That's going to—in November 2020. What's really important that I think we really first wanted to share was what the system does and how important it is, what the modernization is going to bring, the efficiencies that we've long needed. The system itself is very old, but we wanted to also share what's going to happen if we don't do anything and what's the impact to the state and for public safety officer safety. Norsoft Consulting, our current vendor, it's a proprietary code and they notified us 2 years ago of their intent to retire in 2 to 5 years,

but right now we really are on borrowed time, and portions of the code of that current code base is nearing end of life and it's going to be becoming unsupported. Again, it's a very small company. I think there's two full-time people and a half time person supporting the Norsoft system.

EITS (Enterprise Information Technology Services), our current technical service provider here at the state, they're not in a position to take over the system or to maintain that proprietary code base. Also, the current EITS testing environment, even if they attempted to take it over, it's not adequate to support the critical nature of NCJIS. Based on lessons learned in 2017 when we tried to upgrade our current environment, it did not go well. I don't know if those of you that might be on the Commission may have remembered. We had a lot of—several weeks of outages and we had a lot of defects and it took us quite a long time to recover from that, so that was a huge lesson learned for us. If we don't do anything with the system, we'll fall further behind with our ability to meet federal and state mandates and our customers' needs. Again, the Legislature passes statutes pretty much every session for fingerprint requirements, or they might mandate various different types of offenses, new NOC codes, things like that, and we would definitely not be able to meet those new requirements without a system. It just wouldn't do well with public safety.

Also, there is one other critical thing that we need to keep in mind is there is the Presidential Fix NICS Act. It's an act that was passed at the federal level that states are going to need to be compliant with where it's increased information sharing for the purpose of firearms background checks to make sure that we have the most information available and are able to share that information through state information and also nationwide. Again, we use Nlets to share with other states, and again, that's a very critical thing for public safety.

Lastly as far as this point goes, if we don't do anything there is a high risk of catastrophic failure if Norsoft retires in 3 years or less. They would take that system with them. They're not going to just let us have it. Again, it's their proprietary system. If we were left without a system, we wouldn't be able to share criminal justice information with other states. We wouldn't be able to share it in-state. An officer pulling over a vehicle on the side of the road, they'd be going in blind. They wouldn't be able to do a query in the system to see if that's a stolen vehicle or if it's registered to someone that's wanted, that type of thing. So again, huge risk to the public and officer safety.

If purchased and we tried to have EITS—if we had them take it over, it would take months if not years for them to learn how to maintain that system and the code. Again, it's very proprietary so it would be a big challenge, and we just don't have that kind of time. Again, with things becoming end of life and unsupported, we wouldn't be able to update the system if the FBI required new types of queries or new firearms codes to run different firearms. Again, we did private party background checks for Point of Contact Firearms and that requires a new code, which we had to do within the last year. Those are things to think about. Again, we could experience a full or partial system shutdown without regular maintenance. Again, it's got to have updates. That's pretty much all I'm going to

say about that. Again, if we lose our system, we are not going to be able to support our civil side. Again, it's a very critical part of public safety, so the fingerprint-based background checks, Point of Contact Firearms, name-based and sex offender registrations, that system, the current system and the future system is needed to support these types of background checks and queries and information we query for sex offender registrations that are also required by statute.

One of the key messages that we really wanted to share is on the funding. Upgrading systems like this, of course it's not a low-cost effort by any means, but it is critical and very important. So with that, SB (Senate Bill) 514 during the 2019 Session appropriated \$7 million in general fund and authorized \$7 million from our Division's fee reserves for the 2019-2021 Biennium, but we still have a long way to go. We're just getting started and the program's funding for the next two biennia will cost almost \$40 million, so it is something that we wanted to be sure that we share. It is going to be necessary to obtain general funds to support the effort over the next two biennia. This is just a little bit of a breakdown of what was legislatively approved in 2019-2021 and what 2021-2023 and 2023-2025 looks like with these projected costs. We wanted to share a little bit of that information, and if you have more questions on the financial aspects of the presentation, I also have our fiscal officer here with us and she's more than happy to help answer questions on that.

We have looked at other funding solutions over the years of trying to move this forward. We've looked at highway funds, and of course those are basically provisioned by statutes and limitations so that wasn't an option. We've looked at federal grants, and with them being program-centric and limited in fund matching and just timeframes, things have to align just right for us to be able to go that route. But we did apply for a grant for things that we didn't put in our budget for the mod, things such as travel and outreach and training, and we did apply for a JAG (Justice Assistance Grant) grant to offset some of those costs. We received notice we did get that. We also looked at the state bonding program and tried to learn a little bit about that to see if that was an avenue that we could take for the funding, and basically they don't typically bond for these types of heavy software solutions like our mod, and also the repayment costs would have just increased the cost model and cost us more for the repayment plan, so that didn't fit into what we needed either.

Last but not least, one of the other really important messages is once we start transitioning to the new system, the applications and the Cloud storage solution that we're going to be rolling to are completely different than our current environment. Different language platforms for coding, different storage, and so once we start going and we're at that point—and I'll just give a quick update on that when I'm done with this slide. Once we start going, it's going to be very difficult, if almost impossible, to roll back, so it's really important that we get this message out to everybody how critical this is, how excited we are about it, but it is going to cost money, and once we go it would be probably catastrophic to try to roll back. The criminal history transactions that we do through the system, they are updated and logged instantaneously which would make it extremely

difficult to resync that information back. That is what we found in 2017 when we tried to do just basically upgrading the platform that we were already on. We upgraded to a new version. It was supposed to be a very simple thing, but we had trouble and we tried to roll it back and we couldn't resync the information. So again, with that lesson learned that we had is why we feel like this is almost technologically impossible if we start going forward and we have to roll back because of lack of funding. Again, continued funding is very important to move this forward, and I just really appreciate your time. If you have questions, I'm here to answer those.

Chair Nguyen:

Thank you for that presentation, Julie.

Ms. Ornellas:

Yes, thank you. Sorry, I was just trying to run through it fast.

Chair Nguyen:

No, I get it. Are there any other people that have questions at this time?

Justice Hardesty:

A couple of quick questions, if I might. First of all, at what point will the criminal history judgments be entered into the new system, or is that happening now?

Ms. Ornellas:

Let me grab my schedule right here. What we are going to be doing and what we've started right now is we hired a database administrator to start evaluating all of the criminal history that's been in the system since the 1980s. Again, it's in different versions, different formats, that type of thing. They're already starting to look at the format of the data, to cleanse the data, to move the data to almost like a holding server, and if I look at my schedule, they're going to start migrating that data. It looks like it's going to be a fairly long process, but probably around October of 2021, and to migrate it fully it looks like it's going to be about maybe March 2023.

Justice Hardesty:

In previous meetings of the Advisory Commission, we understood that there is a significant backlog of judgments of conviction that have not been entered into the current system. What is happening? Is there still a large percentage of judgments that have not been entered into the system, and how will those be accounted for before the transition?

Mindy McKay (Division Administrator, Records, Communications and Compliance Division):

Thank you for the question. We have made significant progress on that. So, that all started when we found out that there were approximately 900,000 dispositions that we had not received to enter into our system. We were fortunate enough to get the support to hire a ton of staff to dedicate to receiving those, data-entering those. That's done. That was done in a short 4 years. The next focus is getting the sentencing information from the e-disposition system. We receive dispositions electronically from two different courts in the state, just those two courts.

When we receive those dispositions, we do not receive sentencing information so we are focusing on that right now and doing correlation to clean up our criminal history records to make sure that everything is in there, that they match, that it's correct, that they match the federal system. We still have some projects that we're working on related to our criminal history records. We utilize grant funds to hire temporary staff to help us out with that, so we are very grateful for that, but we have made significant progress whereas when we first started this effort 5 years ago, we were at about 28 percent completeness of our records. We are now in the 60 percentile, which is the national average.

Justice Hardesty:

Thank you. How will you catch up or record these before you transition all of these to the new system? Will you be 100 percent recorded before you transition into the new system?

Ms. McKay:

Thank you, sir. We will never be 100 percent because there is always going to be active cases going on. Someone's going to get arrested today and we're not going to have the court information, so we'll never be 100 percent. We may not. We're hoping to have all of the current projects done. The problem is COVID. Unfortunately, we had to lay off all of our temps because they were desk sharing, so we are hoping for COVID to calm down so we can bring our temps back so we can get back to these projects. But that has caused a delay in our efforts regarding the sentencing information that I mentioned. We will never be 100 percent, but we hope to be a lot farther when we get to this effort with the modernization.

Justice Hardesty:

At what point in the schedule will all of the courts be able to transmit their convictions electronically to you?

Ms. Ornellas:

Thank you, sir, for the question. With the modernization, we will definitely be transitioning the courts that are currently submitting electronically, the existing courts that are currently submitting electronically, but we are looking at—again, I say that lightly. We're trying to look at actual technical coding or technical specifications that the courts could take with their current case management systems. The problem is that each court—not each, maybe not all, but they have different case management systems, and so trying to funnel those different case management systems to basically interface in a standard way to upload those court documents up into our system and link to the actual offense is a little bit challenging, but we are hoping to create what we call a “technical spec” that we could provide to those courts and work with them in the future to create an interface where they can just—I think we have two primary courts in the Las Vegas area that do electronic disposition, and it works well. It has a couple of little hiccups here and there, but for the most part, from what I understand—I'm not on that side of the house, but it works fairly well. We would love to implement something like that for all courts. It's something that we would definitely need to partner with them with those different systems. I don't know what their offending limitations would be, but we hope to create a tech spec that we can provide to them that would allow them to work with us to do that interface and that coding, and then we can accept those in electronically like we do with those other courts. So, it is something that we are looking at with the modernization.

Justice Hardesty:

Then, the last question: are the courts 100 percent reported at this point on their judgments of convictions? Are there any courts that are outstanding in their reporting? We had a problem about a few years ago where there were a few courts that were seriously delinquent in the reporting of their convictions. Are we now current or do you have a list of courts where there are issues that are outstanding?

Ms. Ornellas:

Thank you for that question, sir. According to Mindy, yes, they are 100 percent. Everybody is reporting now, so the efforts of outreach and communication and stuff have really helped with that.

Justice Hardesty:

Thank you. I appreciate it. Sorry, Chair, for the extra questions.

Chair Nguyen:

That's okay, Justice Hardesty. Do we have any other questions from our members? I don't see anyone here. Thank you so much, Julie and Mindy. I appreciate you guys presenting to us. I know that we haven't heard from you yet and so I know that you're

struggling just like a lot of other people are with COVID, and so we appreciate all your hard work as well.

With that, I'm going to close out agenda item VIII. We are almost done, everyone. Agenda item IX will be pretty quick, hopefully. It's the appointment of members to the Subcommittee on Criminal Justice Information Sharing. This was statutorily created by NRS 176.01248, and at this time the members are appointed by the Chair, and so I will do that at this point. In this case, I would like the Subcommittee to focus on the important task of modernization like they had talked about in the NCJIS program, and it's my hope that the Subcommittee will reconstitute some of the working groups from the last interim session. I know that they have been working, but I would like to formally make sure that that is taking place. I know that we have a lot going on, but this is such important work and I think it's very important that we continue with this. As we heard in the presentation, there is no going back at this point. I appreciate the work that they are doing and I would like them to continue doing that work with the working groups. It's my understanding and it's my hope that the Subcommittee would hold one meeting in October and report to the full ACAJ at our next meeting in November.

At this time, I would like to appoint Mindy McKay as the Chair of that Subcommittee and I would also like to appoint members who had previously served in the last interim and have affirmatively expressed an interest in serving again. For the record, I would be appointing as members Robert Quick, Jenny Noble, Steve Grierson, Heather Palasky, Rick Stefani, Erica Souza-Llamas and Tom Lawson. Additionally, Director Togliatti has indicated that he would like to reappoint Fred Olmstead as a member appointed by the Director of the Department of Public Safety, and that gives this Subcommittee a total of nine members. That would be staffed by the Legislative Counsel Bureau. Pursuant to the statute, there doesn't need to be a full vote of the ACAJ. I could just go ahead and appoint those members, so at this time I would like to go ahead and do that and close out agenda item IX and move on to agenda item X.

It's my intent at this time to hold one more final meeting of the ACAJ in mid-November where we would potentially address some possibility—recently our state was contacted by the Pew Charitable Trust with the possibility of setting jail populations in Nevada, so that may be something that we want to further look into as the ACAJ in the next couple of years. Additionally, I have contemplated, because there's so much crossover between the ACAJ and the Sentencing Commission, possibly having the Sentencing Commission and the Department of Sentencing Policy give a brief presentation on what they're doing and how our two committees kind of work together. Also, a final report again from that Subcommittee on Information Sharing that was just formed today and vote on any final recommendations from this interim committee and a possible work session, and I would like to get any of those recommendations and documents out to the Committee well in advance of that. Taking into consideration some of the things we have heard, it may be just continuing to look at some of these issues and not making recommendations at this time. Those are some of the things. If anyone has any other ideas of things that they

would like included, this is an opportunity. I would love to hear what they have. Like I said, that's kind of my intention at this point, but I will open it up to the members for input.

Ms. Welborn:

Thank you, Chair. I just want to make sure that perhaps we can leave open the possibility of addressing at our final meeting this issue with the inmate trust accounts and the garnishment issue. I do intend to try to work this out through the executive branch as much as possible, but there is some potential I think at this point that might require some statutory change, but we'll discover that throughout the course of our ongoing conversations.

Chair Nguyen:

Thank you for that. There are a lot of topics that I think have been brought up by members of the Commission, and obviously with time it's difficult to address all of those, but I will definitely keep that in mind as a possibility of something that we can continue to discuss, and I would look forward to your continued information that you have working forward with the executive branch.

Is there anyone else that has a question or comment or would like something included, possibly? With that, I will close out agenda item X and open it up for public comment. Again, I will limit it to two minutes, and I would encourage anyone if they are on the phone to submit anything that they are reading that is already in writing to submit that to the Committee so it can be a part of the record, and with that I will turn this over to Broadcast to see if there are any callers for public comment.

Broadcast and Production Services Staff (Administrative Division, Legislative Counsel Bureau):

Madam Chair, we typically take a two-minute break to allow them to get a chance to call in, unless you would like to proceed. We currently have a few on the line.

Chair Nguyen:

We'll just go ahead and start taking those callers, and then hopefully someone will get on if they have an opportunity or if they would like to. Thanks.

Ms. Brown:

Yes, I just have a quick comment on agenda item V during the—Justice and Injustice panels. I apologize—in case I missed one of the stakeholder's names, but I was wondering, out of the stakeholders is there any member of a family on the panels that lost a loved one to police brutality? If not, I think they should be included because they have a lot to say and a lot of input can come through these family members. Thank you.

Ms. Grant:

This is in regards to agenda item VI. The death of George Floyd certainly has sparked long overdue conversations. I believe Nevada law enforcement officials need to start recognizing their own George Floyd, like my brother Thomas Purdy who was hogtied by Reno police during a mental health crisis where all he did was ask for help. For 40 minutes he was hogtied and then asphyxiated at Washoe County Jail while still hogtied as he begged for his life, like George Floyd, along with two other men also were asphyxiated to death at Washoe County Jail, Niko Smith and Justin Thompson, shortly before and after my brother. I noticed during the meeting, the AG's justice hearing—Balaam chose to condemn the other actions of the officers in George Floyd's case, but what about the actions of their own officers? My brother was hogtied in which every page of the manual says never to use to hogtie a human being. On 9/12/20 I attended an event in support of Washoe County families who are personally affected and had their family member killed by police. Four Reno police officers stood across the street laughing as the families were speaking. We the families speak out because we don't want another family living this nightmare. I informed Reno City Council about these actions with zero response from them. I need these officers' names so that I can file a formal complaint against them. They need to be held accountable for their actions. I am not shocked at their lack of response as I personally know of someone who filed a complaint against an elected official, Karl Hall, in July of 2019. To this day, Reno PD (Police Department) has done zero with the complaint even after they were provided with witnesses' names. All public servants should be held accountable like everyone else. Please consider discussions on use of excessive force, drug testing for all police officers and a much broader transparency and accountability. DA Christopher Hicks waits years to release officer-involved shooting reports in Washoe County and I'd like to know why. That's unacceptable, and I'd also just like to add that again—would like to reiterate, I would like to see an amendment to AB 356 to include a posthumous exoneration. Thank you.

Mercedes Maharis:

Yes, this is Mercedes Maharis for the record, Las Vegas, Nevada. I wanted to say that I support the no on no-garnishment by the ACLU and by the Strong Families Organization. Also, please read my addendum ([Agenda Item III D](#)). I'm interested in the Advisory Commission on ending slavery in our State Constitution. It would be a very positive sign to our prisoners who are currently titled slaves in our Constitution, and we did have a letter about that recently. I was shocked and found out that it was so. So, we must get cracking on that and make a change. We don't need something over 100 years old governing our prison system. In addition, we need more direction in mental health care. I read that 41 percent in 2017 of our prisoners are there flagged with mental health concerns, which seems to be overwhelming our system and needlessly so. Stay strong all and stay well, and I hope that Director Daniels will make speedy advances in education that I have reason to believe is not up to par, even though I believe he thinks it is. In addition, all prisoners need social security counseling and having it set up before they leave. Peace for all. Thank you for all you do to help others.

Broadcast and Production Services Staff:

Madam Chair, that concludes public testimony.

Chair Nguyen:

Thank you again, everyone. Thank you for being so patient. I was trying to run it as efficiently as possible. I know it's difficult to take up half of your day, more than half of your day, so I appreciate all of your time. At this time, I will close public comment, and seeing no other further business before the Commission, I thank you for your time. We are adjourned at 5:06 p.m.




RESPECTFULLY SUBMITTED:

Jordan Haas, Secretary

APPROVED BY:

Assemblywoman Rochelle Nguyen, Chair

Date: _____

Agenda Item	Witness/Agency	Description
<u>Agenda Item III A</u>	Jodi Hocking	Public Comment
<u>Agenda Item III B</u>	Tonja Brown	Public Comment
<u>Agenda Item III C</u>	Annemarie Grant	Public Comment
<u>Agenda Item III D</u>	Mercedes Maharis	Public Comment
		
<u>Agenda Item III F</u>	Frank Rudy Cooper	Public Comment
<u>Agenda Item III G</u>	Alyn Wolf	Public Comment
<u>Agenda Item IV</u>	Jordan Haas, Commission Secretary	Draft Minutes of the June 11, 2020 Meeting
<u>Agenda Item V</u>	Aaron Ford, Attorney General	Presentation on Justice and Injustice Panels
<u>Agenda Item VI</u>	Len Engel, Crime and Justice Institute	Presentation on Retroactivity and AB 236
<u>Agenda Item VII A</u>	Lieutenants Ryan Osborn and Aaron Evans, Division of Parole and Probation	Presentation on Revisions to AB 236
<u>Agenda Item VII B</u>	John Jones, Chief Deputy District Attorney, Clark County District Attorney's Office	Presentation on Corrections to AB 236
<u>Agenda Item VII C</u>	Charles Daniels, Director, Nevada Department of Corrections	Presentation on AB 236
<u>Agenda Item VIII</u>	Julie Ornellas, Program Administrator, NCJIS Modernization Program, Records, Communications and Compliance Division	Presentation on the NCJIS Modernization Program