

# COVID-19 and Criminal Justice in Nevada: Learning from a Crisis

March 2022



**Justice  
Reinvestment  
Initiative**  
Nevada

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## EXECUTIVE SUMMARY

Beginning in 2018, to address significant 10-year growth in its prison population, Nevada participated in the Justice Reinvestment Initiative (JRI), a public-private partnership funded by the Bureau of Justice Assistance and the Pew Charitable Trusts. As a result of the JRI effort, Nevada passed Assembly Bill 236, a piece of legislation that took effect on July 1, 2020, when much of the state's normal operations were halted by the COVID-19 pandemic. As in the rest of the country, the effects of the pandemic on Nevada's justice system were dramatic and far-reaching: statewide shutdowns led to fewer officers on the streets and fewer case filings, and slowed court processes. In the corrections system, state agencies struggled at times to find the right balance of policies to protect individuals in custody and staff, and elected not to increase releases in order to reduce population density. Oversight of criminal justice policy responses to the pandemic was diffuse, leaving agencies and localities largely to determine themselves how to respond to the new and challenging circumstances.

In the spring of 2021, Nevada state leaders sought technical assistance from the Crime and Justice Institute (CJI), asking CJI to conduct an assessment of how the pandemic affected not only the implementation of AB 236, but also the state's criminal justice system as a whole. Nevada also asked CJI to assess state and local policy changes that occurred in response to the pandemic, to determine their efficacy and potential sustainability, and their effect on the JRI changes.

To fulfill this request, CJI conducted a qualitative and quantitative assessment, which included analyzing data from several state agencies and speaking to stakeholders working in law enforcement, jails, courts, corrections, and community supervision. Below are some key findings of that assessment:

- Monthly Nevada prison admissions were 27 percent lower on average from March through December 2020 than before the pandemic. This decrease was likely driven by a reduced incidence of crime in early 2020, as well as law enforcement, prosecutors, and courts focusing their resources on the most serious offenses.
- Prison releases also decreased during the pandemic as the state elected not to decrease the density of Nevada prisons by safely releasing individuals, and instead focused their policy responses on protective and restrictive measures within NDOC facilities.
- Courts underwent a widespread shift to remote proceedings, which resulted in both helpful efficiencies and ongoing procedural challenges that have yet to be fully resolved, while pandemic related closures exacerbated an existing backlog of cases in the state's busiest courts.
- While many of the changes from AB 236 took effect unencumbered by the pandemic, certain provisions – specifically related to community supervision and revocation – were implemented inconsistently across the state.

According to projections developed following the passage of AB 236 in 2019, estimates predicted a 2028 Nevada prison population of just over 14,000 people – 1,000 fewer prison beds than projected without the changes of AB 236. Even before COVID-19, Nevada's prison population showed a gradual, near 3 percent decline between 2017 and 2019; however, many of the massive changes wrought by the pandemic will have an even greater impact on the state's future prison population. The current report focuses on the past and present effects of COVID-19 on Nevada's criminal justice system. A subsequent report will focus exclusively on the pandemic's effect on future prison population numbers and include revised projections.

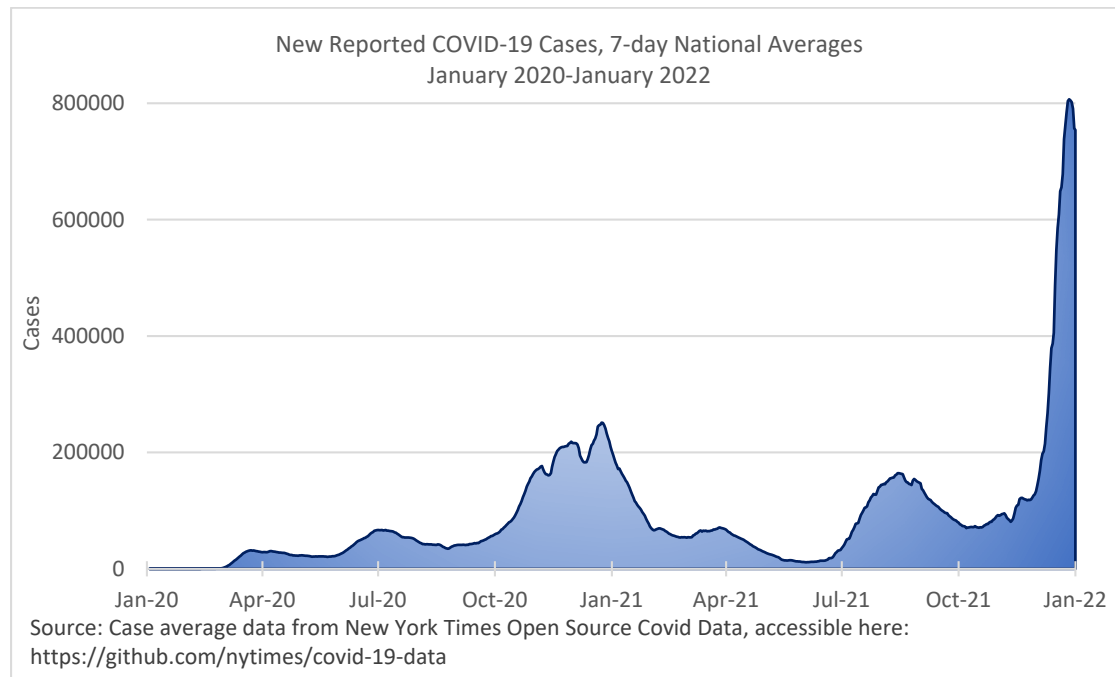
This assessment led to 12 policy recommendations intended to assist Nevada in responding to the continued threat of COVID-19 and future public health crises. These are in line with the policy changes enacted through AB 236, but focus specifically on:

1. Expanding local practices adopted in Nevada and in other jurisdictions to develop long-term solutions that will fortify the justice system against future large-scale crises;
2. Reducing the density of prison and jail environments in order to mitigate the spread of airborne viruses and ensure corrections administrators can keep both staff and the incarcerated population safe; and
3. Prioritizing cooperation and coordination between the various components of the public safety, public health, and justice systems.

## NATIONAL CONTEXT

The Centers for Disease Control and Prevention (CDC) confirmed the first case of COVID-19 in the U.S. in late January 2020, from samples taken in Washington State.<sup>1</sup> This represented the early stages of what is now a global pandemic with far-reaching effects on every sector of American life. Since that initial case, throughout the country there have been spikes in reported cases from late November 2020 to the end of January 2021, in the late summer of 2021, and at the end of 2021 into early 2022 (see Figure 1). Hospitalizations, deaths, and testing rates have largely followed the same overall pattern as cases, with hospitalization and death rates peaking slightly later than testing and case rates.<sup>2</sup>

*Figure 1. National figures indicating COVID-19 surges since the first positive case in January 2020*



In responding to the pandemic, criminal justice agencies throughout the United States have had to balance the interests of public health with the interests of public safety. Many law enforcement agencies increased the use of citations in lieu of arrests, particularly for lower-level offenses. They also

<sup>1</sup> Centers for Disease Control and Prevention. (2022, January 5). [CDC museum COVID-19 timeline](#).

<sup>2</sup> [Coronavirus in the U.S.: Latest maps, dates, and death counts](#). (2022, February 28). *The New York Times*.

limited enforcement of certain types of offenses, such as traffic violations. These responses reduced the number of interactions between police and the public, as well as the number of people entering jails. Most courts underwent a significant shift toward remote hearings and continued cases for extended periods. Jurisdictions throughout the country enacted policies to limit pretrial detention, including presumptive release on recognizance for broad classes of offenses. Community corrections agencies transitioned from in-person reporting to remote or limited reporting as a way to protect their staff and supervisees. In many cases, closures of community supports, such as substance use treatment and job skill development, required adjustments to community supervision plans.<sup>3</sup>

Correctional institutions faced an even greater challenge in maintaining this balance. The confined nature of their settings, their congregate environments, and the high prevalence of medical vulnerabilities of individuals in custody all heighten not only the potential for COVID-19 to spread within facilities but also the severity of the disease among those infected.<sup>4</sup> Toward the end of 2020, confirmed COVID-19 case rates in prisons were nearly four times the national rate, and some of the largest clusters of cases in the United States have occurred inside correctional facilities. In addition, the death rates in prison are higher than statewide rates, and this disproportionate impact does not appear to be going away.<sup>5</sup> By April 3, 2021, individuals in custody contracted the virus at a rate over three times the general population and died from COVID-19 at a rate of two-and-a-half deaths to every one death in the community.<sup>6</sup> In response to these challenges, some state systems sought to increase the number of individuals released from correctional facilities by executive orders, state legislation, or other means. At the local level, many departments underwent shifts, such as reducing custodial arrests and increasing release on recognizance.<sup>7</sup> Other jurisdictions did not make such concerted efforts to reduce the number of incarcerated individuals.

In addition to these responses, correctional systems also acted to mitigate the risk of infection for those who work and are incarcerated inside the facilities. Responses inside correctional facilities included increasing space between people in custody by opening up closed areas of facilities or creating makeshift housing areas, staggering meal times and recreation, limiting movement outside of housing units, stopping visitation and programming that required any outside staff to enter facilities, and establishing quarantine periods at intake.<sup>8,9</sup> Some states implemented mass testing in their prison systems<sup>10</sup>, and most required PPE compliance from certain incarcerated people as well as staff.<sup>11</sup>

<sup>3</sup> National Commission on COVID-19 and Criminal Justice. (2020, December). [Experience to action: Reshaping criminal justice after COVID-19](#). Washington, D.C.: Council on Criminal Justice.

<sup>4</sup> Montoya-Barthelemy, A. G., Lee, C. D., Cundiff, D. R., & Smith, E. B. (2020). COVID-19 and the correctional environment: The American prison as a focal point for public health. *American Journal of Preventive Medicine*, 58(6), 888-891.

<sup>5</sup> Schnepel, K. T. (2020). [COVID-19 in U.S. state and federal prisons](#). Washington, D.C.: Council on Criminal Justice.

<sup>6</sup> Marquez, N., Ward, J. A., Parish, K., Saloner, B., and Dolovich, S. (2021). COVID-19 incidence and mortality in federal and state prisons compared with the U.S. population, April 5, 2020, to April 3, 2021. *Journal of the American Medical Association*, 326(18), 1865-1867.

<sup>7</sup> Prison Policy Initiative. (2022, February 25). [The most significant criminal justice policy changes from the COVID-19 pandemic](#).

<sup>8</sup> Federal Bureau of Prisons. (2020, March 13). [Federal Bureau of Prisons COVID-19 action plan: Agency-wide modified operations](#).

<sup>9</sup> Ridderbusch, K. (2021, October). [COVID precautions put more prisoners in isolation. It can mean long-term health woes](#). NPR.

<sup>10</sup> Schnepel, K.T., Abaroa-Ellison, J., Jemison, E., & Engel, L. (2021). [COVID-19 testing in state prisons](#). Washington, D.C.: Council on Criminal Justice.

<sup>11</sup> Widra, E. & Herring, T. (2020, August 14). [Half of states fail to require mask use by correctional staff](#). Prison Policy Initiative.

The pandemic also had a profound effect on behavioral health in the criminal justice system, both with regard to the incidence of mental illness and substance use disorders among justice-involved people, and the availability and accessibility of treatment services. This is significant, as behavioral health needs are already disproportionately prevalent in the criminal justice system.<sup>12</sup> The National Alliance on Mental Illness (NAMI) reports that people with serious mental illness are booked into jails about two million times per year, and about two in five incarcerated individuals have a history of mental illness.<sup>13</sup> The pandemic exacerbated the incidence and severity of these illnesses. Researchers found that symptoms of anxiety and depression increased in the spring of 2020 compared to the same time in 2019,<sup>14</sup> and the CDC reported the number of drug overdose deaths in 2020 was the highest number ever recorded.<sup>15</sup> This increase is compounded by the fact that the pandemic forced temporary or permanent closures of treatment services, impeding the ability for individuals to get needed treatment.<sup>16</sup>

Lastly, crime rates during the pandemic changed in a variety of ways. National violent crime rates rose during 2020, while national property crime rates continued a 20-year decline.<sup>17</sup> While some offense types increased from 2020 to 2021 (aggravated and gun assaults), others decreased (burglary, larceny, and drug offenses).<sup>18</sup> Homicide rates also fluctuated but were generally higher than in recent years, rising by 49 percent from the first quarter of 2019 to the first quarter of 2020, then declining from a peak in the summer of 2020. Overall, violent crime rates in 2020 remained lower than two decades prior with a difference of over 100 fewer violent incidents per 100,000 in 2020 compared to 2000.<sup>19</sup>

## METHODS

In order to understand COVID-19's impact on Nevada's justice system, CJI conducted both quantitative and qualitative research, reviewing data from state and local agencies and interviewing practitioners throughout the state. Data were provided by the Administrative Office of the Courts (AOC), Specialty Courts, Nevada Department of Corrections (NDOC), Clark County Detention Center (CCDC), the Eighth and Second Judicial Districts, and Nevada Board of Parole Commissioners. CJI also conducted an online survey of Nevada Parole and Probation (NPP) officers, asking questions about changes to caseloads, violations, risk levels of individuals on supervision, and general challenges that occurred during the pandemic.<sup>20</sup>

<sup>12</sup> Steadman, H. J., Osher, F. C., Robbins, P. C., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric Services* 60(6), 761-765.

<sup>13</sup> National Alliance on Mental Illness. (n.d.). [Mental illness and the criminal justice system](#).

<sup>14</sup> Czeisler, M. É., Lane, R. I., Petrosky, E., Wiley, J. F., Christensen, A., Njai, R., Rajaratnam, S. M. (2020). Mental health, substance use, and suicidal ideation during the COVID-19 pandemic - United States, June 24-30, 2020. *Morbidity and Mortality Weekly Report*, 69(32), 1049-1057.

<sup>15</sup> Farley, E., Engel, L. & Jemison, E. (2021). [COVID-19 and the changing landscape of substance use disorder treatment](#). Washington, D.C.: Council on Criminal Justice.

<sup>16</sup> *Id.*

<sup>17</sup> United States Department of Justice, Federal Bureau of Investigation. (2021, December). [Crime in the United States, 2021](#).

<sup>18</sup> Rosenfeld, R., & Lopez, E. (2021). [Pandemic, social unrest, and crime in U.S. Cities](#). Washington, D.C.: Council on Criminal Justice.

<sup>19</sup> Violent crime rates in 2000 were near 500 per 100,000 whereas 2020 rates were under 400 per 100,000. See Federal Bureau of Investigation Crime Data Explorer, <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/crime-trend>

<sup>20</sup> CJI provided NPP personnel headquarters with a web link to the anonymous online survey, and received approximately 45 responses. There were 178 parole and probation officers eligible for completing the survey, 46 of whom responded, for an overall response rate of 26 percent. Only half (four) of the eight NPP Command offices are represented in the survey responses, the majority from Las Vegas followed by Reno.

To get an idea of how things changed over time, the data received were grouped into distinct time periods (see Table 1), comparing trends as they existed prior to the pandemic, during the pandemic, and during 2021.<sup>21</sup> Variables analyzed included admissions, releases, filings, demographics, sentence lengths, and length of stay, among others.

*Table 1. Periods defined as before and during COVID-19 or through 2021 based on data availability.*

Data Source	“Before COVID-19”	“During COVID-19”	2021 Period
NDOC Data	January 2019 – February 2020 (14 months)	March – December 2020 (10 months)	January – October 2021 (10 months)
CCDC Data			January – May 2021 (5 months)
Parole Board Data			January – August 2021 (8 months)
AOC & Specialty Court Data	July 2017 – February 2020 (32 months)		January – April 2021 (4 months, Specialty Court only)
Eighth Judicial District	July 2018 – February 2020 (20 months)		January – August 2021 (8 months)
Second Judicial District	July 2018 – February 2020 (20 months)		January – July 2021 (7 months)

The stakeholders interviewed represented a variety of perspectives and professional backgrounds, as well as diverse regions of the state. CJI spoke with judges, prosecutors, defense attorneys, treatment providers, law enforcement personnel, advocates for incarcerated individuals, directly impacted persons, correctional and community supervision staff, court personnel, public health professionals, legislators, representatives from the victims and survivors’ community, and community support program staff. Through the interviews, CJI learned of substantial changes adopted at various points in the justice system. In addition to assessing the consequences of COVID-19, one of the goals was to identify any policies and practices established under pandemic conditions that could be permanently adopted, both to improve the delivery of justice and to safely keep corrections populations from increasing as the state moves forward.

## DATA FINDINGS

### ***Nevada’s statewide COVID-19 numbers hover near the national median***

Background information on how the coronavirus spread throughout Nevada provides context to its effects on the criminal justice system. While Nevada announced its first positive case of COVID-19 on

<sup>21</sup> The time period defined as ‘during COVID-19’ is necessarily somewhat arbitrary due to the fact that in many respects the pandemic is not over. For the purposes of comparison, the March to December 2020 period was chosen both because many data sets analyzed cut off at December 2020, and because stakeholders reported the greatest systemic effects of the pandemic during the March to December 2020 period. As such, the 2021 data this report covers more accurately describe a different and more recent stage of the pandemic than it does a “post-pandemic” period.

March 5, 2020,<sup>22</sup> the state saw a significant spike of new cases between late November 2020 and January 2021, and its largest peak of new cases in January 2022.<sup>23</sup> This pattern is in line with the national trend of new cases.<sup>24</sup> The variables used to assess community transmission include case rates, hospitalizations, and death rates. As of November 16, 2020, the beginning of its first peak, Nevada had a seven-day case rate of 361 per 100,000. With the spread of the Omicron variant, Nevada’s seven-day case rate per 100,000 increased to 814 as of February 1, 2022. This rate is lower than 29 states, though deemed a high level of community transmission, per the CDC.<sup>25</sup> Looking beyond case rates at hospitalizations, between August 1, 2020, and December 31, 2021, Nevada had 41,647 total new hospital admissions of patients with confirmed COVID-19. During the same period, Arizona had 95,558, Utah had 27,100, and Oregon had 21,660.<sup>26</sup> Looking specifically at the number of people who died from COVID-19 in the state, the CDC reported that, as of December 30, 2021, Nevada had the 20th highest death rate out of the 50 U.S. states, with 272 deaths per 100,000. For context, the state with the highest death rate was Mississippi and the lowest was Vermont, with 350 and 70 deaths per 100,000, respectively. Compared to Nevada’s neighboring states of Arizona, California, Idaho, Oregon, and Utah, only Arizona exceeds Nevada in the death rate per 100,000.<sup>27</sup>

*Table 2. COVID-19 death rates in Nevada and neighboring states*

State	Death Rate per 100,000
Arizona	332
Nevada	272
Idaho	232
California	191
Oregon	133
Utah	117
Source: CDC COVID Data Tracker, as of December 30, 2021	

***Nevada’s violent and property crime rates declined in 2020, but homicides increased***

Crime rates in Nevada during 2020 and 2021 only partially align with recent national crime trends, and do not reflect the 2020 rise in violent crimes observed at the national level. Data from the most recent Uniform Crime Reports (UCR)<sup>28</sup> show that Nevada’s violent crime rate decreased 7 percent from 2019 to 2020. UCR trends show that violent crime overall is down 35 percent from 2009 to 2020 (see Figure 2). Despite this decrease, Nevada’s homicide rate increased from 2019, as did homicide rates nationally. In 2020, the state averaged just under six homicides per 100,000 people compared to just under five homicides per 100,000 the year prior. Notably, Nevada’s 2020 homicide rate was lower than the state’s homicide rates from 2013 through 2018. Finally, mirroring national trends, Nevada’s property crime rate consistently declined over the past few years, dropping nearly 17 percent from 2019 to 2020.

<sup>22</sup> Southern Nevada Health District. (2020, March 5). [Southern Nevada Health District announces positive case of COVID-19 in a Clark County resident.](#)

<sup>23</sup> [Nevada coronavirus map and case count.](#) (2022, February 28). *The New York Times.*

<sup>24</sup> nyt-covid-19-bot & Sun, A. (2022, February 28). [Coronavirus \(Covid-19\) data in the United States.](#)[csv file]

<sup>25</sup> Centers for Disease Control and Prevention. (2022, February 28). [Trends in number of COVID-19 cases and deaths the US reported to CDC, by State/Territory.](#)

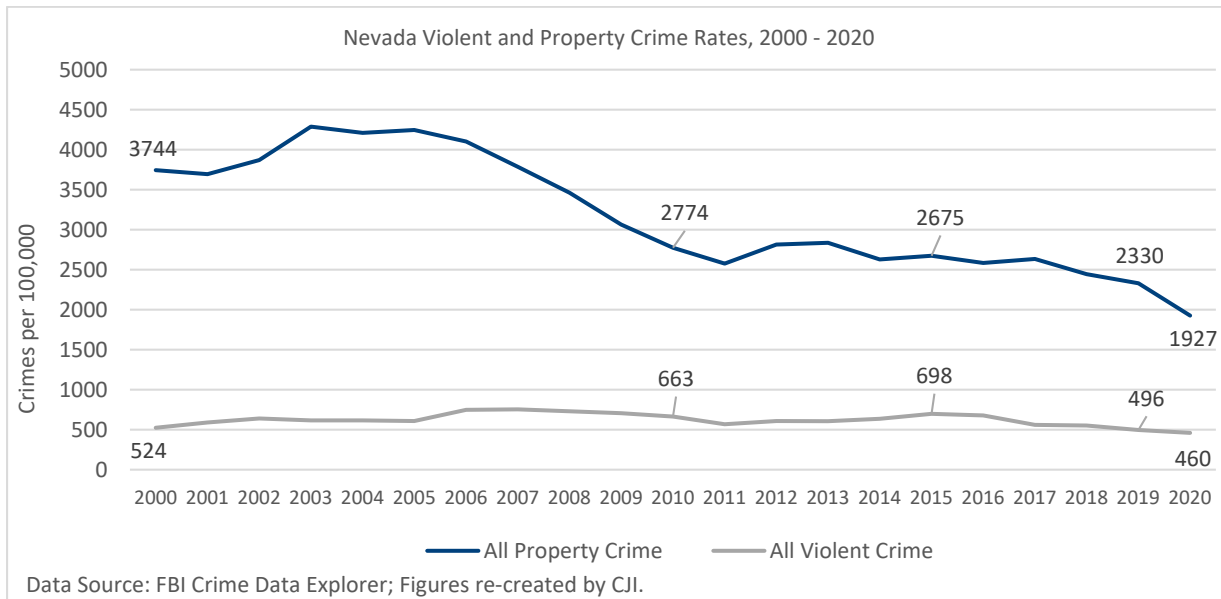
<sup>26</sup> Centers for Disease Control and Prevention. (2022, February 26). [New admissions of patients with confirmed COVID-19 per 100,000 population by age group, United States.](#) Retrieved Dec 31, 2021.

<sup>27</sup> Centers for Disease Control and Prevention. (2022, February 28). [Trends in number of COVID-19 cases and deaths the US reported to CDC, by State/Territory.](#)

<sup>28</sup> Federal Bureau of Investigation. (2022, January). [Crime Data Explorer.](#)



Figure 2. Nevada’s violent crime rates declined in 2020, contrary to national trends



**The pandemic resulted in fewer case filings and a focus on more serious offenses**<sup>29</sup>

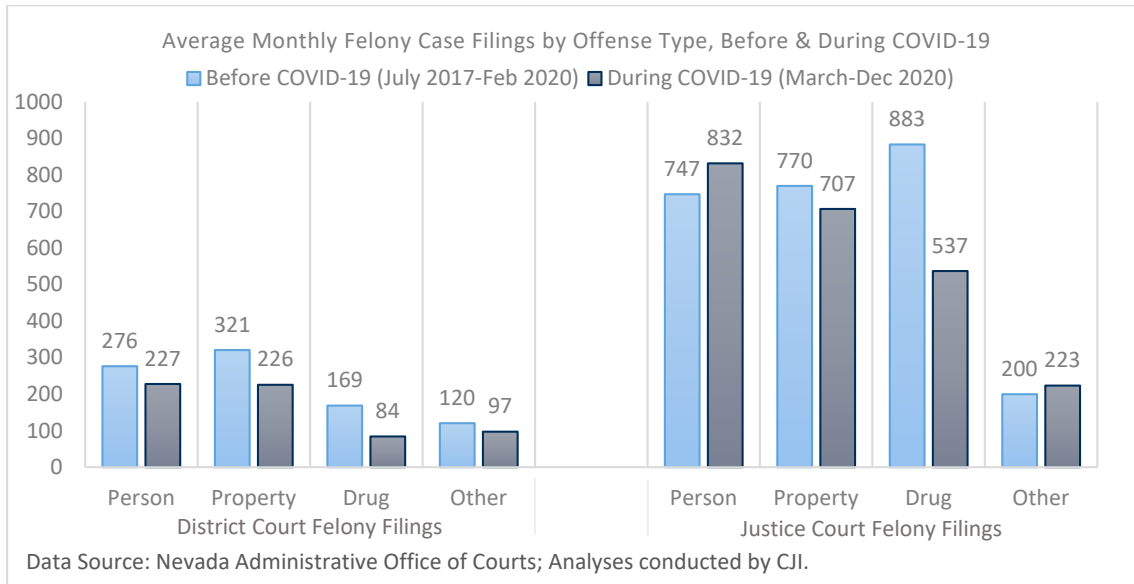
During the shutdown, fewer people were out committing offenses and officers booked fewer people for less serious offenses. As a result, data from the Administrative Office of the Courts (AOC) shows decreased felony filings from the Justice and District Courts. Monthly felony filings in Nevada Justice Courts declined by 12 percent, with over 300 fewer monthly filings; felony filings in District Courts, following transfer from Justice Court, decreased by 28 percent during the pandemic, with over 250 fewer monthly filings. When looking at specific case types, the greatest decline in filings was in the number of drug offenses, which dropped by nearly 40 percent in Justice Courts and over 50 percent in District Courts (see Figure 3). This finding aligns with reports from various stakeholder interviews indicating that the pandemic focused strained law enforcement and prosecutorial resources on more serious offenses.

This focus on more serious offenses was further reflected in case filings from the Eighth Judicial District, Nevada’s largest District Court. Felony filing trends from the Eighth District resemble trends in the overall AOC data, with monthly felony filings decreasing by 26 percent during COVID-19. With fewer filings for less serious offenses (e.g., drug offense filings dropped by half), the proportion of case filings by offense types shifted to more serious, person-based offenses during the pandemic. The share of filings during COVID-19 were increasingly comprised of person, sex, and “other” offense types.<sup>30</sup> For sex and “other” offense types, this upward proportional trend continued into the first half of 2021.

<sup>29</sup> The phrase “serious offense” is used throughout this report. Because the measurement of crime seriousness may vary and can be subjective, for this report serious offense refers to person-based offenses, such as violent offenses, sex offenses, and other offenses against a person. This decision is informed by research on crime seriousness measurement, which typically finds that person-based offenses are rated as the most serious offenses (e.g., see de Giovanni, C., Shao, L., & Zhou, Z. (2021). How do people measure the seriousness of crime?. *British Journal of Criminology, Law & Justice* 1(1), 39-51.)

<sup>30</sup> Felony offense categories pre-defined and grouped by Eighth Judicial District are as follows: Person, Property, Drug, Sex, Traffic, and ‘Other’. Felony ‘other’ category included a large portion of weapons-related offenses.

Figure 3. Average monthly case filings declined most for drug and property offenses in District or Justice Courts



**More felony person cases were filed than resolved in Justice and District Courts <sup>31</sup>**

Similar to filings, felony dispositions also declined during COVID-19, dropping in Justice Courts by an average of around 23 percent, or over 580 fewer dispositions each month, and decreasing in District Courts by 26 percent, or around 230 fewer monthly dispositions. When looking at specific offenses, the data show there were more dispositions than filings during COVID-19 for property and drug offenses in District Court, indicating that the District Courts were “keeping up with” or “staying ahead of” these filings. However, this was not the pattern for person offenses: while District Court person offense filings were down 18 percent, District Court person-based case dispositions dropped even further, down an average of 21 percent each month.<sup>32</sup> Such filing-to-disposition imbalances were even starker in Justice Courts, with an average of 80 more person-based felonies being filed each month during COVID-19 while around 80 fewer person-based felony dispositions occurred in the same period. The effects of such imbalances were also evident in patterns from the Eighth Judicial District, where about 56 percent of pending cases filed during COVID-19 were for person or sex-based offenses, a notably higher percentage of more serious pending cases than those still pending from filings before COVID-19.

**Felony cases greater than one year in age increased in the District Courts**

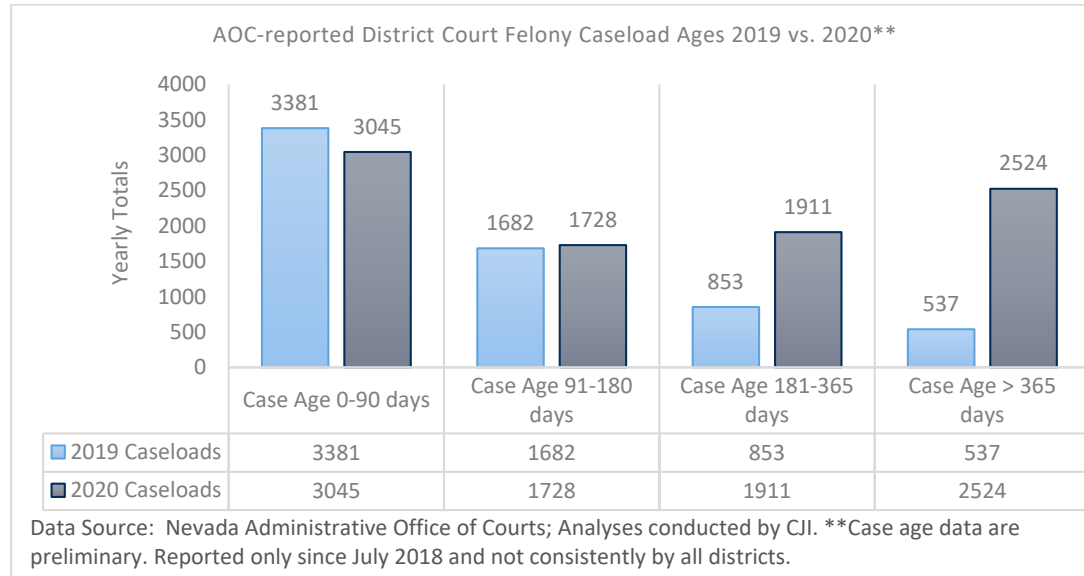
Reflecting the decrease in the number of dispositions, the AOC data indicated that criminal case age, or the number of days since a case was filed, grew during the pandemic. This is illustrated in Figure 4, showing the annual total number of cases that were older than a year and still unresolved jumping from 537 in December 2019 to 2,524 cases by December 2020. It is likely that cases grew older due to reduced court capacities as the result of the pandemic. AOC data also showed increased pending caseloads in Justice Courts, with over 7,800 pending cases by June 2020 compared to just over 5,000 in June 2019. Many courts, including Nevada’s two busiest District Courts, closed almost entirely between

<sup>31</sup> Felony ‘person’ category using NV AOC data includes: crimes against persons; domestic violence; elder abuse; and child abuse & neglect. Felony ‘other’ category using NV AOC data includes: weapons; public order; motor vehicle – DUI, reckless, other; and AOC-defined ‘other’.

<sup>32</sup> A similar pattern was observed for District Courts’ ‘other’ offense category, which dropped 19 percent in case filings during COVID-19 but dispositions for this offense type dropped even further at 26 percent.

April and August of 2020. The courts have implemented innovative methods to speed dispositions in light of the backlog.

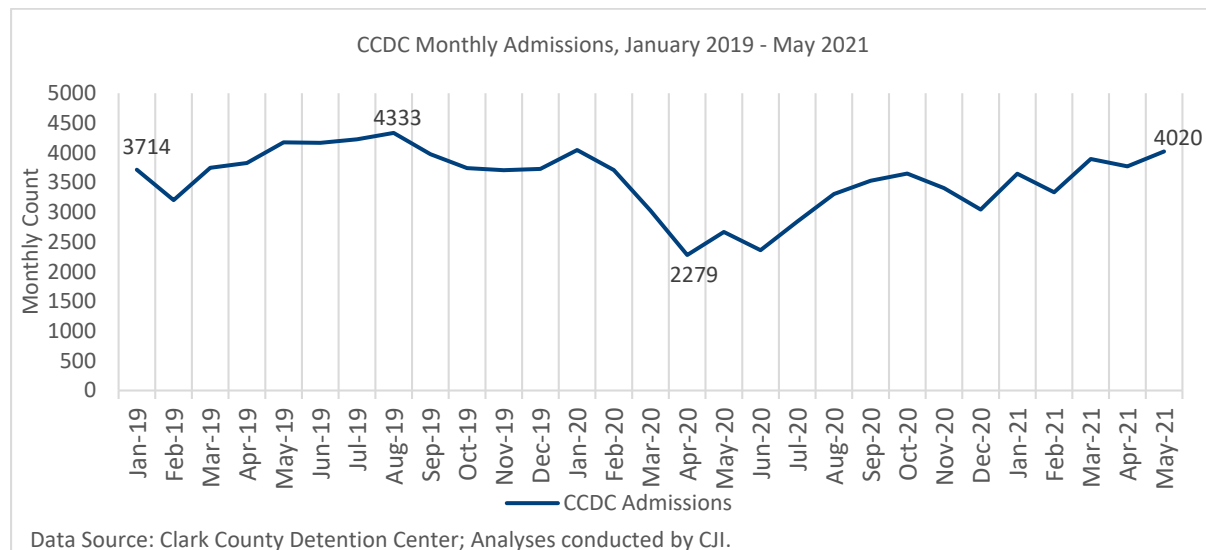
Figure 4. Case age increased significantly during the pandemic, most notably for cases pending over a year



**Jail and prison admissions dropped significantly during the pandemic, driven by fewer admissions for non-person offenses**

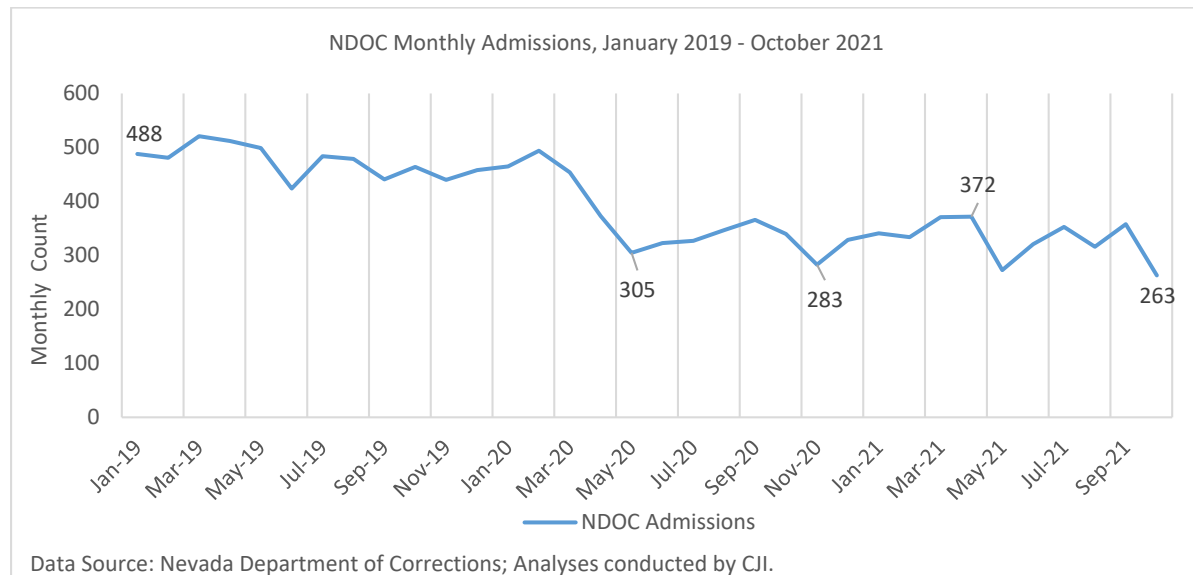
Using data from the state’s largest jail, CJI explored monthly admissions to the Clark County Detention Center (CCDC) and found a step decline at the start of the pandemic, with admissions reaching a monthly low of 2,279 in April 2020 (see Figure 5). The average monthly number of jail admissions during COVID-19 (3,010) was 22 percent lower than before COVID, with over 850 fewer jail admissions each month. Since the April 2020 low, however, monthly jail admissions gradually returned to levels resembling pre-pandemic admissions, with 4,020 jail admits in May 2021.

Figure 5. Monthly CCDC admissions declined rapidly in Spring 2020 but gradually returned to pre-pandemic levels



Similar to the early trends observed in CCDC data, admissions to Nevada’s prisons also declined. From estimates starting in March 2020 (see Figure 6) NDOC’s monthly admissions were 27 percent lower, on average, during COVID-19 compared to pre-pandemic admissions (see Table 1 for data-defined periods), with nearly 130 fewer admissions every month from March to December 2020. Monthly admission estimates declined an additional 4 percent in 2021, with an average of 330 admissions each month compared to 475 per month before COVID-19. This decline occurred across all offense types<sup>33</sup> – but most steeply among drug offenses – dropping 41 percent from an average of 84 admissions per month in the period leading up to COVID-19 to an average of 49 per month during the pandemic. Large monthly declines in admissions were also evident for property offenses and the “other” offense category, both of which were down by around 30 percent during COVID-19. Smaller declines were observed for monthly admissions for person-based offenses, with admissions for both sex and violent offenses declining only 20 percent, and therefore comprising a comparatively greater share of admissions during COVID-19.

*Figure 6. Dramatically lower monthly NDOC admissions in Spring 2020 fluctuated but remained low through 2021*



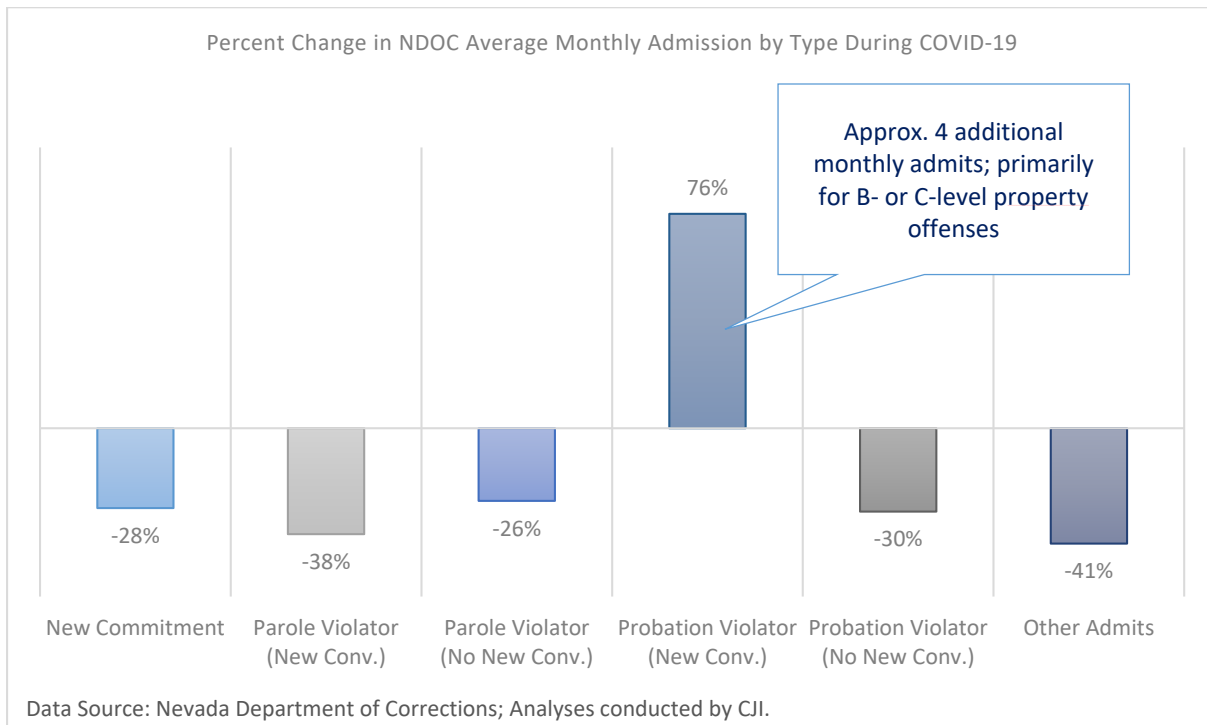
NDOC admissions declined for nearly all admission types (e.g., new commitments versus violations) with the exception of probation violations for new convictions. The monthly average for those entering prison for a new commitment, which comprises over half of all NDOC admissions, dropped 28 percent during COVID-19, while the monthly average of people admitted for parole or probation violations without new convictions<sup>34</sup> dropped 26 and 30 percent, respectively. In contrast, admissions for individuals on probation with a new conviction, which represents just 2 percent of all NDOC admissions, increased by approximately four additional admits per month (see Figure 7).<sup>35</sup>

<sup>33</sup> Offense categories pre-defined and grouped by NDOC: Violence, Sex, Property, Drug, DUI, and Other. Further exploration into the “other” category shows over one-third related to weapon or firearm possession.

<sup>34</sup> Violations without new convictions may be technical violations or other violations that are not new crimes, like absconding; however, the data do not allow for analyses at that level of detail.

<sup>35</sup> A note on parole violations: between March and July 2020, the Parole Board and Division of Parole and Probation quashed warrants for parolees deemed to be “low-level violators,” resulting in fewer returns to prison of parolees than otherwise might have occurred during that period.

Figure 7. Prison admissions declined across nearly all admissions types during COVID-19



**Releases from jails and prisons dropped during the pandemic**

Monthly releases from CCDC saw a significant dip around March 2020, and a new low of 2,393 releases was recorded in June 2020. From there, as early as July 2020, CCDC monthly releases began a climb back to pre-pandemic levels and continued to grow through the first several months of 2021 (see Figure 8). Overall, the average number of monthly releases during the pandemic was 3,030, over 820 fewer releases each month – a 21 percent decline – compared to average monthly jail releases in 2019. Notably, these average monthly estimates rebounded to just 5 percent fewer releases than 2019, with approximately 3,663 releases for each month from January to August 2021.<sup>36</sup>

The prison system also experienced a decline in releases during COVID-19 that continued to fluctuate well into 2021 (see Figure 9). Average monthly releases dropped from 563 prior to the pandemic to 477 releases during the COVID-19 period. Despite a surge in releases around September 2020,<sup>37</sup> compared to before the pandemic, there were nearly 850 fewer monthly releases from NDOC from March to December 2020. In 2021, prison releases dropped further, with about 30 fewer releases per month compared to during COVID-19, for an overall decline of 19 percent.<sup>38</sup>

<sup>36</sup> Because jail stays are often less than one month long, the summer 2020 decline in jail releases was certainly driven to some degree by the decline in admissions during that period.

<sup>37</sup> These NDOC release patterns during COVID-19 align with uptick in parole hearings around late Summer 2020 (see Figure 11).

<sup>38</sup> While release numbers can be expected to fluctuate with changing prison population sizes, the rate of decline in release patterns was greater in 2020 and 2021 than the rate of decline in NDOC population. The 2020 and 2021 NDOC end-of-year populations were down 11 and 10 percent, respectively, while the end-of-year release numbers were down by 15 and 12 percent those same years.

Figure 8. Average monthly jail releases declined by 21 percent during COVID-19

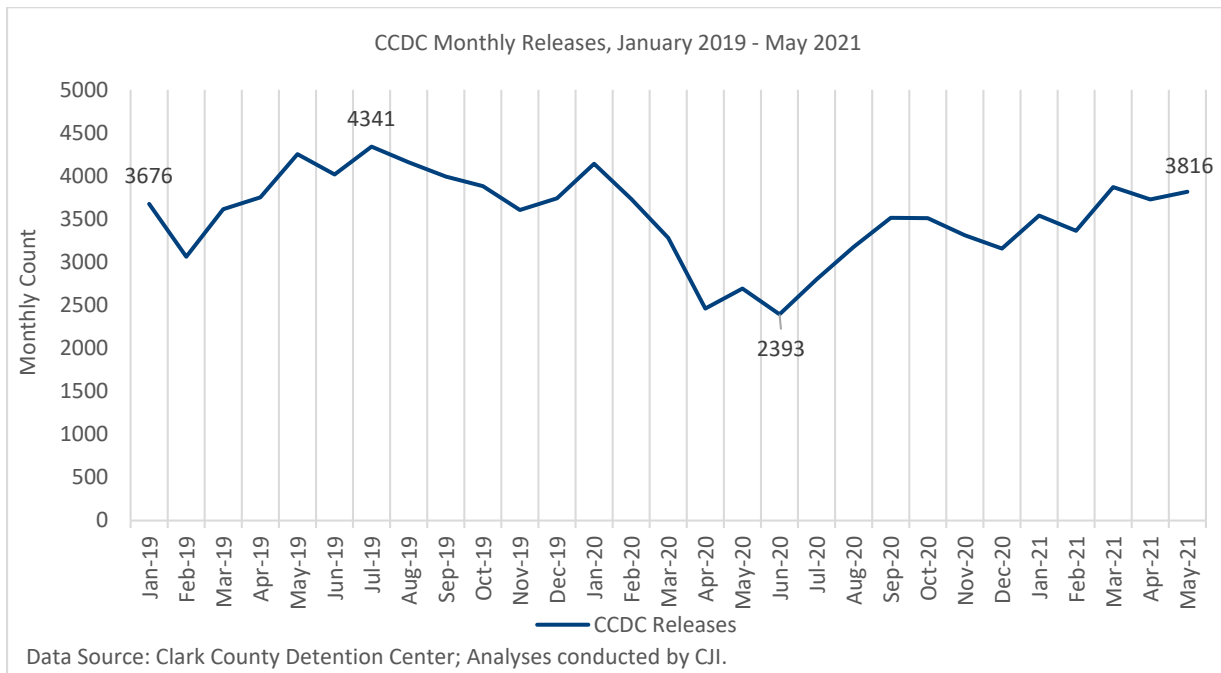
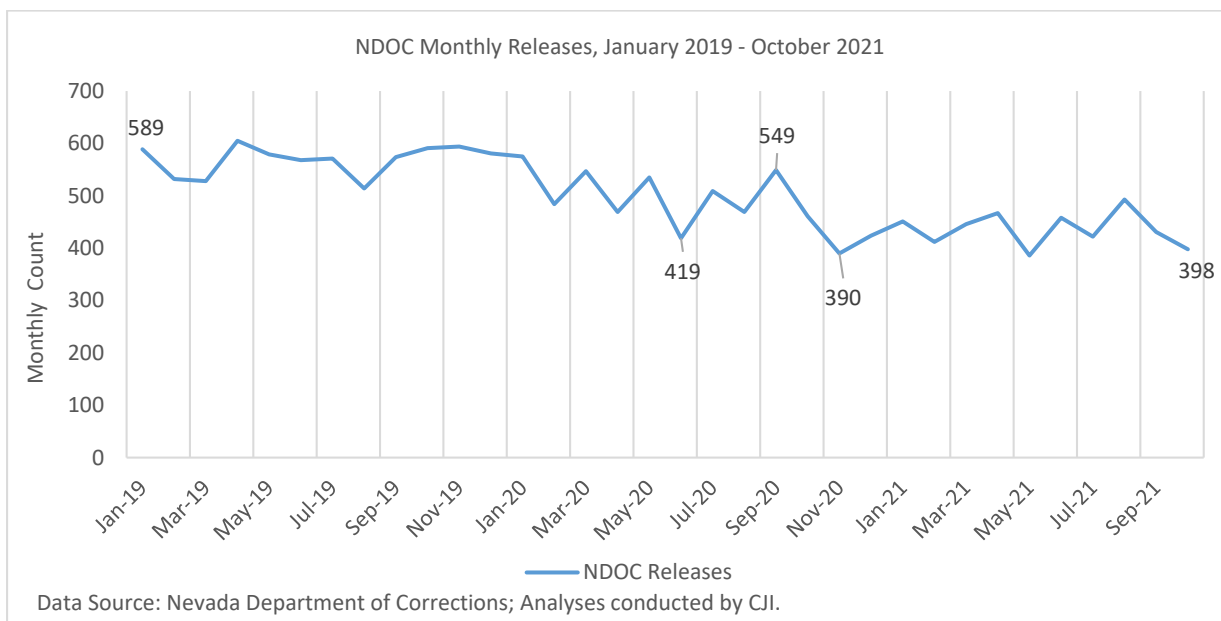


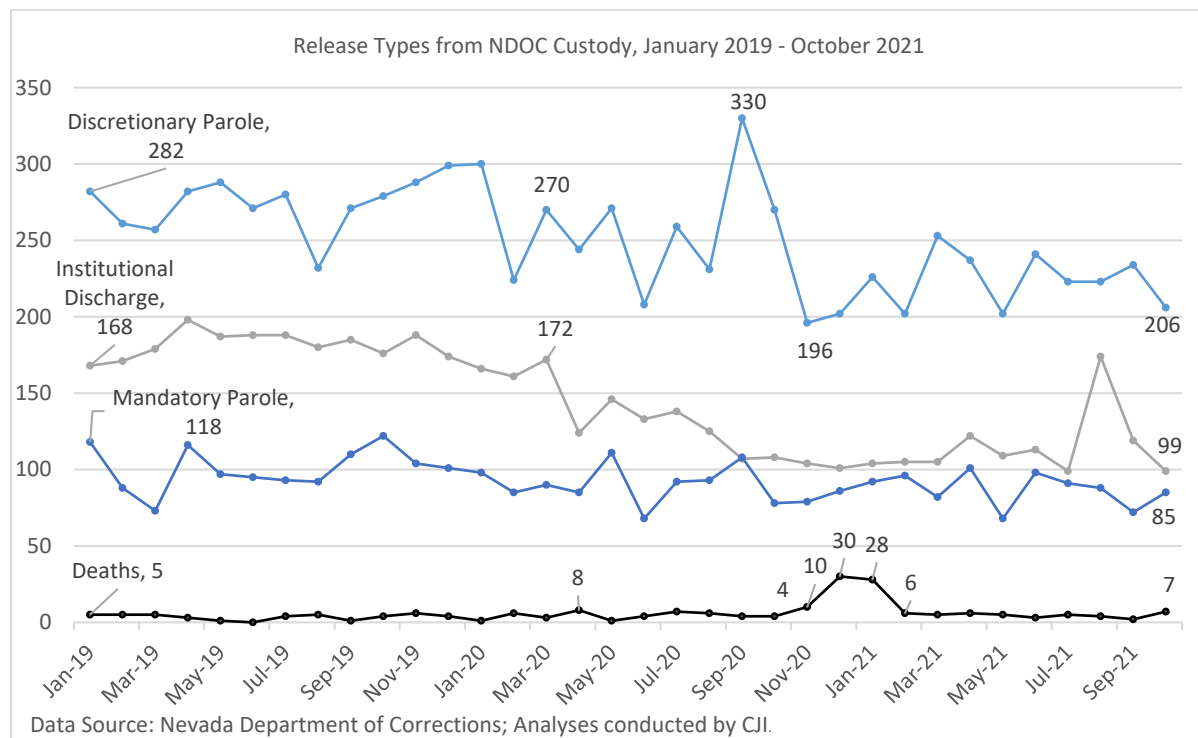
Figure 9. NDOC average monthly releases dropped 19 percent compared to before COVID-19



Virtually all releases from an NDOC facility (98 percent) are the result of three mechanisms: discretionary release on parole, institutional discharge, and mandatory parole release. Discretionary release on parole is the most common at approximately 50 percent of releases, followed by institutional discharge at 30 percent, and mandatory parole release at 19 percent. While all three release types declined since the start of COVID-19, institutional discharges experienced the most significant drop during the pandemic, falling first by 30 percent, and then by an additional 9 percent since the start of 2021 (see Figure 10).

Institutional discharges include both releases at the expiration of a person’s sentence and several statutory mechanisms that NDOC can utilize to release individuals. Both data and interviews suggest that these tools were rarely used during the pandemic due to decisions of NDOC and limitations in statutory eligibility. The available mechanisms include residential confinement,<sup>39</sup> medical release,<sup>40</sup> and temporary work furlough.<sup>41</sup> The residential confinement transfer is designed for individuals who have had institutional successes, but eligibility is limited to those never convicted of anything more serious than a category C felony. Medical release allows NDOC to release individuals who are terminally ill, but the law only allows release when the individual is within 18 months of death. Lastly, the department can release individuals through temporary furlough for family emergencies, work placements, and any activity approved by the director and the Parole Board. Interviews suggested that releases on work furlough were limited during the pandemic, in large part due to inability to find placements.

*Figure 10. Declines in all release categories except death, which more than doubled during COVID-19*



**COVID-19 resulted in fewer hearings and fewer releases granted by Parole Board**

At the onset of the pandemic, Governor Sisolak issued an emergency directive closing all state agencies to the public, from March 20 through May 31, 2020. This directive removed the Parole Board’s ability to hear cases during that period, and all in-person parole hearings were effectively suspended until June 2020. State statute does not allow the Board to deny parole without an in-person hearing, but it does allow the Board to grant parole in-absentia, without a hearing.<sup>42</sup> As such, the Board worked hard to review all individuals deemed eligible for parole by NDOC and granted parole for those who fit the in-

<sup>39</sup> NRS § 209.3925.

<sup>40</sup> NRS § 209.3925.1 (a) (2); DOC Regulation 523.04, § 2 (B).

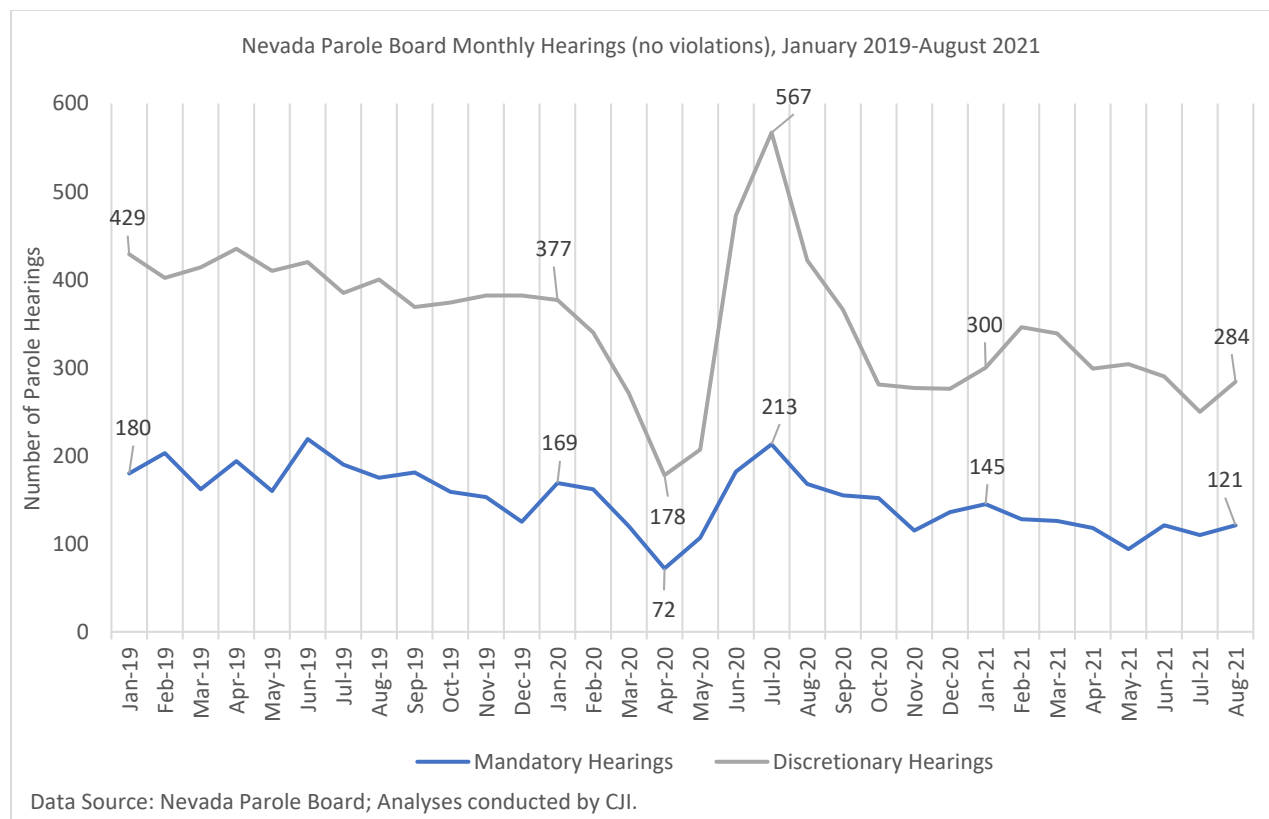
<sup>41</sup> NRS § 209.501.

<sup>42</sup> NRS § 213.133 (8).

absentia eligibility criteria outlined in statute in April and May 2020.<sup>43</sup> Despite the Board’s ability to grant parole without an in-person hearing, the total number of parole hearings declined between 2019 and 2020. By the end of 2020, around 50 percent of NDOC’s 2020 end-of-year population (n=11,481) had parole hearings, compared to 53 percent of the 2019 end-of-year population (n=12,929) (see Figure 11).<sup>44</sup> As for hearings held in 2021, there were approximately 60 fewer per month for a yearly estimate of over 700 fewer total hearings than in 2020. Many factors contributed to this decline, including a smaller NDOC prison population and an increasing percentage of individuals in custody on a serious offense.

This decrease in the number of hearings is similarly reflected in the decline of parole releases from NDOC. While institutional discharges had the greatest drop, both discretionary and mandatory parole releases declined following the emergence of COVID-19. NDOC data show that discretionary parole releases declined 9 percent (25 fewer releases) each month during the COVID-19 period and mandatory parole releases dropped 10 percent (10 fewer releases) each month (see Figure 10). Again, it is important to note that both the decreasing size and more serious composition of the NDOC population may explain the decline in parole hearings.

*Figure 11. Dramatic fluctuations in parole hearings netted a 16 percent decline from March to December 2020*



<sup>43</sup> Id.

<sup>44</sup> Regarding the specific number of hearings, the Parole Board held over 1,100 fewer hearings in 2020 (5,786) than in 2019 (6,903).



***The share of parole hearings for more serious offense types grew during COVID-19 and into 2021***

Similar to the changes in prison admissions, which saw a larger proportion of serious crimes and a smaller proportion of drug and property offenses coming into prison, hearings before the Parole Board were made up of a greater proportion of more serious offenses. Parole hearings for sex offenses or violent offenses made up a greater share of the hearings held during the COVID-19 period than prior to the pandemic.<sup>45</sup> This trend continued into 2021, with an increasing share of hearings for sex offenses or violent offenses and a lower share of drug offense cases coming before the Parole Board.

***Parole grant rates remain consistent despite fewer hearings and a larger share of more serious offense types***

Board data indicates that the decline in hearings and releases did not impact parole decisions. Despite a reduced number of hearings and higher proportion of serious cases coming before the Board, the discretionary parole grant rate remained consistent to pre-pandemic rates during COVID-19 at between 62 to 65 percent.<sup>46</sup> The mandatory parole grant rates were comparable before and during COVID-19 (71 percent), but increased to nearly 79 percent over the first eight months of 2021.

***The frequency of “no action” hearings increased during COVID-19***

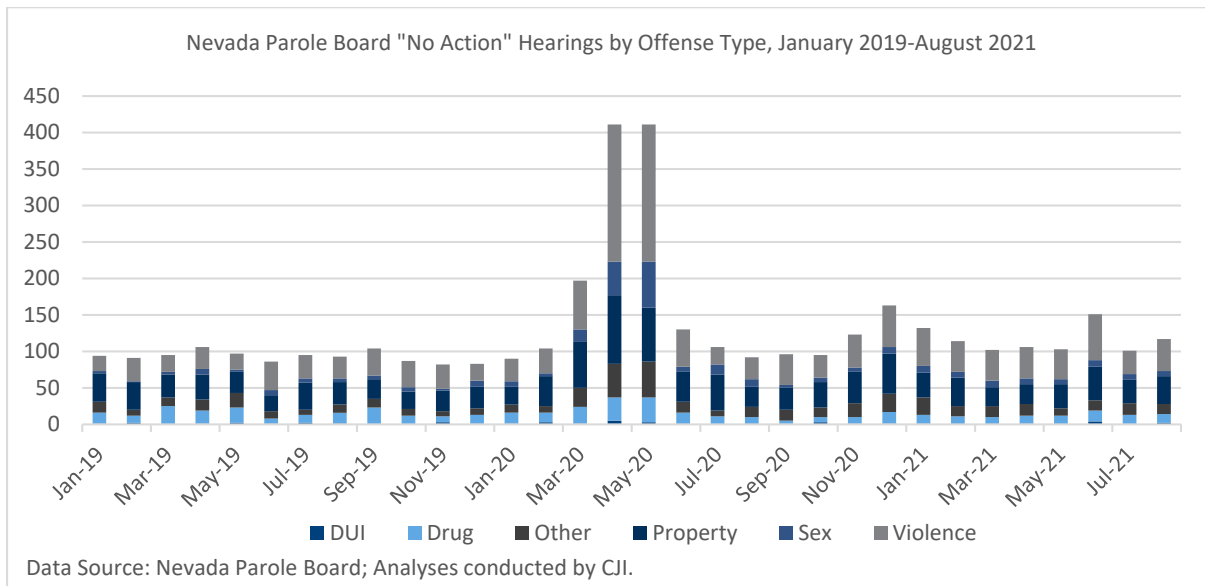
Among the decisions considered by the Parole Board is a “no action” hearing, meaning the Board took no action to deny or grant parole on an eligible case. Most often, the reasons listed for “no action” are administrative in nature but may include: requests for continuance by incarcerated people or their counsel; continuations pending the outcome of disciplinary or new criminal charges; or ineligibility due to “change or correction in sentence structure or credits earned/lost per NDOC records.” During the COVID-19 period when in-person hearings were suspended, “no action” was the primary decision for candidates who required an in-person hearing due to the nature of their case. As a result, during the COVID-19 period, “no action” hearings increased over 90 percent. The primary reason cited was “Public Meeting Cancelled due to COVID-19 Emergency Declaration.” However, increased “no action” hearings also continued into 2021, despite the resumption of in-person hearings. Interviews suggest some of this inaction was in part to an inability to access individuals in custody who were either under quarantine or receiving medical care due to COVID-19. From January to August 2021, there were 24 percent more “no action” decisions than pre-COVID-19 (see Figure 12). “No action” hearings have the potential to result in a delay in the parole-eligible person’s release to parole and an extension of the period in prison. Well before COVID-19, the Board began considering contingency dates to allow for more timely hearings of “no action” cases for which administrative delays (e.g., missing paperwork) might be remedied within a month. In some instances, however, a contingency date is not possible, and the next hearing is delayed by another 60 to 90 days as a matter of course.<sup>47</sup>

<sup>45</sup> Parole board data pre-defines offense categories as DUI, Drug, Property, Sex, Violence and “Other.”

<sup>46</sup> The grant rate during COVID-19 excluded the April and May 2020 “perfect” 100 percent grant rates that resulted from the Boards granting of parole to select eligible inmates without a hearing. When those months are included, the average monthly discretionary parole grant rate was 65 percent, slightly higher than the rate of 62 percent excluding the two months and comparable to the rate before COVID-19. Mandatory grant rates including all of the 10 months during COVID-19 were 75 percent.

<sup>47</sup> NRS 213.010; NRS 131.

Figure 12. “No action” hearings by offense type from January to August 2021



***NDOC length of stay increased during the pandemic, with the median length of stay growing in both 2020 and 2021***

While fewer individuals are entering prison during the pandemic, those in custody are staying there longer. The median length of stay for all individuals released from NDOC custody (14.4 months) was about one month longer for those released during COVID-19 than the median length of stay for those released during the pre-pandemic period (13.2 months). The median length of stay for individuals released from NDOC in 2021 was even longer (16 months), resulting in individuals remaining in NDOC custody nearly 1.5 more months than those released during COVID-19, and over 2.5 months longer than those released from NDOC pre-pandemic.<sup>48</sup> Though the reason for the increased lengths of stay is not known, it could be caused by a combination of factors, including fewer monthly parole release hearings during COVID-19 and through 2021, an NDOC population with more serious convictions, and the inability to earn credits through programming or work placements.<sup>49</sup>

***Nevada prisons had a higher death rate during the pandemic compared to other states***

On March 26, 2020, NDOC announced the first employee case of COVID-19 on March 26, 2020,<sup>50</sup> and the first positive COVID-19 case in an incarcerated individual on May 20, 2020.<sup>51</sup> By March 2021, a year into the pandemic, NDOC had an estimated case rate of 399 per 1,000 individuals in custody, compared to the state’s general population case rate of 99 per 1,000 residents.<sup>52</sup> Comparing transmission rates within states’ incarceration facilities, Nevada ranked 21st in the nation, similar to its ranking in

<sup>48</sup> The reported length of stay estimates reflect all releases and include shorter stays for individuals incarcerated for parole or probation violations. The median lengths of stay for new commitments-only showed similar patterns, with stays around 21 months before COVID-19, 22 months for releases during COVID-19, and about 24 months for releases over 2021.

<sup>49</sup> Lyle, M. (2021, March). [Corrections Dept. rule has extended prisoners’ sentences during pandemic: Lawmakers urged to retroactively fix NDOC good time credits policy](#). *Nevada Current*.

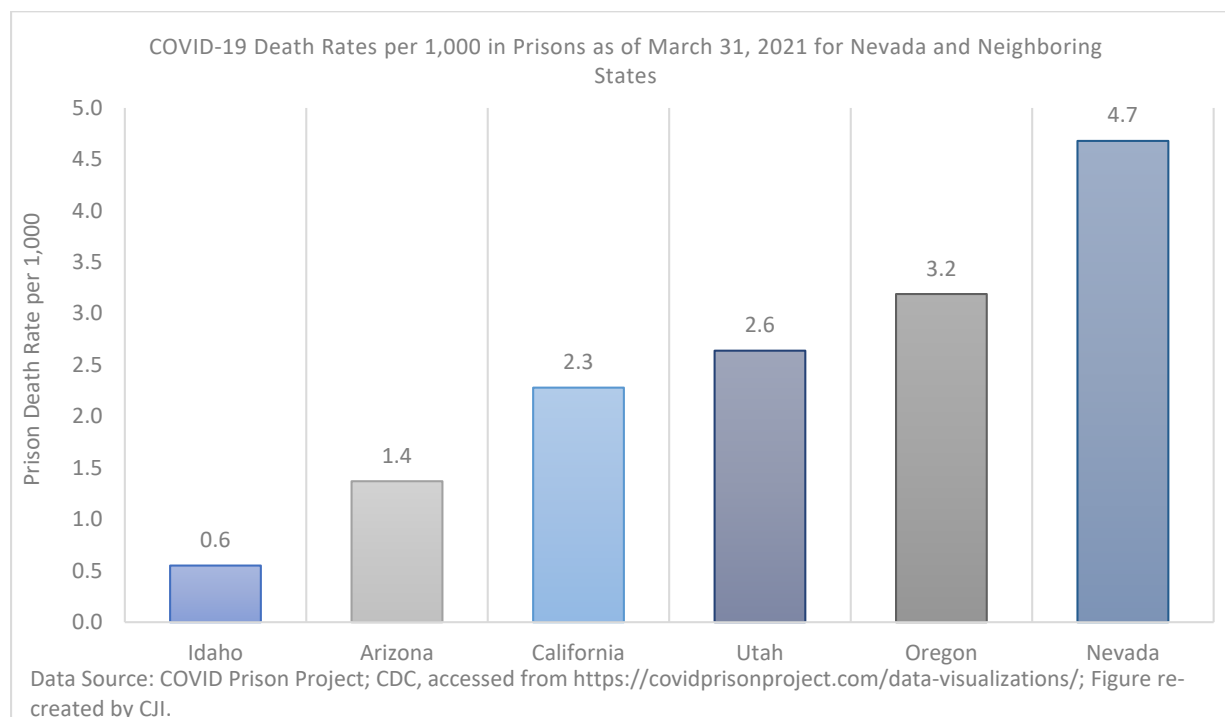
<sup>50</sup> Nevada Department of Corrections. (2020, March 26). [Nevada Department of Corrections confirms first case of COVID-19 \[Press release\]](#).

<sup>51</sup> Nevada Department of Corrections. (2020, May 20). [NDOC confirms first offender case of COVID-19 \[Press release\]](#).

<sup>52</sup> The COVID Prison Project. (2021, March 31). [COVID-19 Cases per 1,000 in the Prison and the General Population as of March 31, 2021](#).

community transmission. However, the Nevada prison system had the third-highest rate of deaths among incarcerated populations across 45 states, exceeded only by New Mexico and Kentucky, and significantly higher than its neighboring states (see Figure 13).<sup>53</sup>

*Figure 13. Nevada prisons had far higher COVID-19 death rates per 1,000 individuals in custody than neighboring states*



This finding is significant given the limited state action to reduce prison density and enable NDOC to engage in meaningful mitigation efforts. As noted earlier, despite tools being available to decrease the number of individuals in prison, releases decreased during the pandemic. This includes those mechanisms cited above, such as medical release, furlough, or residential confinement, as well as discretionary parole, mandatory parole, or geriatric parole. Geriatric parole was a new option for the Parole Board that went into effect in July 2020, yet the data showed zero hearings related to geriatric parole over the year following its effective date. Apart from existing mechanisms, the state took no executive action to release individuals from prison in contrast to some leaders across the country. This inaction is notable given the pressing need to reduce density to mitigate the spread and prevent harm to individuals within Nevada’s prison system.

***NDOC data show increasing parole population during COVID-19 while surveyed NPP officers reported higher supervision caseloads***<sup>54</sup>

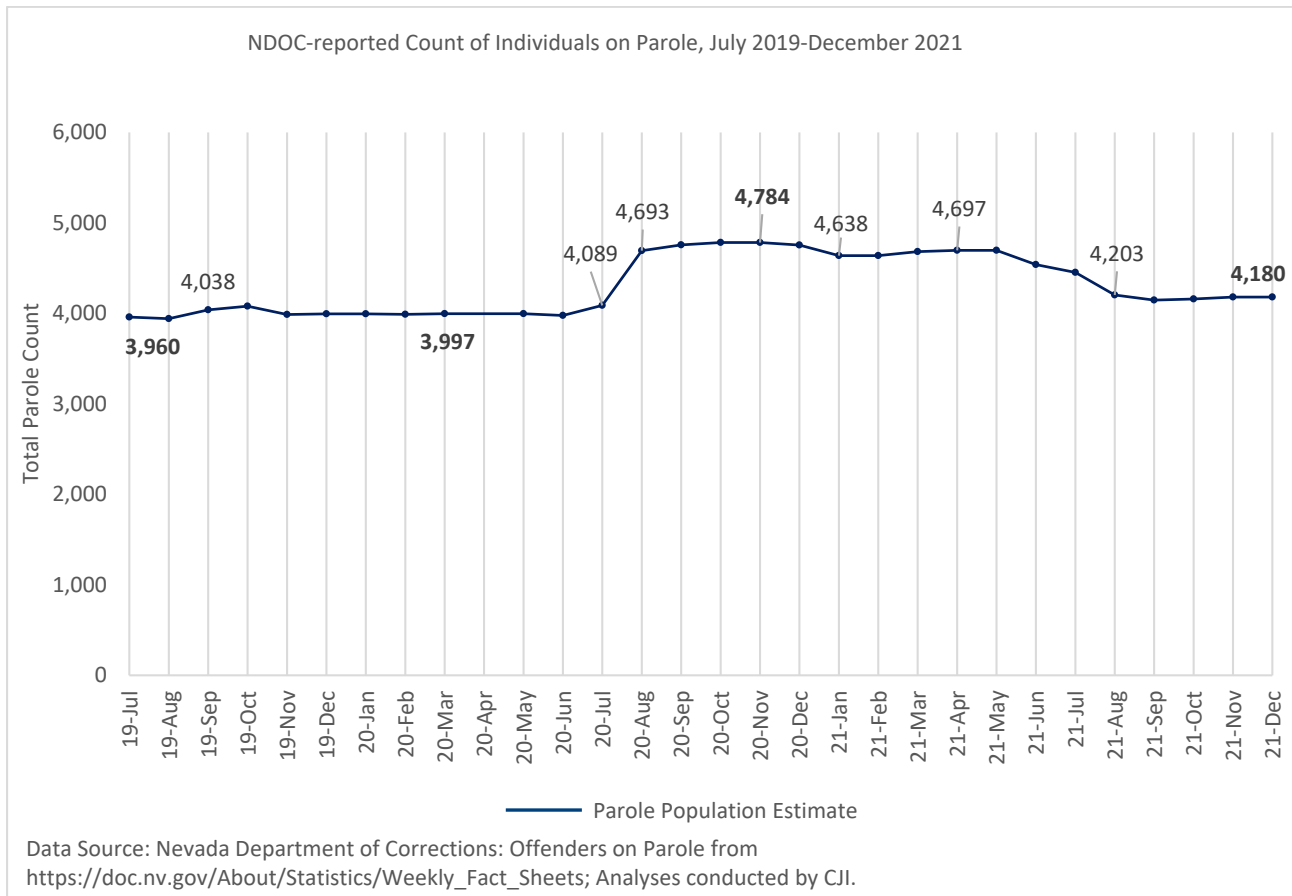
CJI also explored the impact of COVID-19 on Nevada’s community supervision population, using publicly available NDOC weekly reports that list counts of males and females on parole in Nevada on a given

<sup>53</sup> The prison death rate reported for Nevada was of 4.68 per 1,000. Source: The COVID prison project. (2021, March 31). [COVID-19 Deaths per 100,000 in the Prison and the General Population as of March 31, 2021.](#)

<sup>54</sup> While NPP officers supervise individuals on both parole and probation, reliable information on the count of individuals on probation in Nevada at any given time was not accessible to CJI. Estimates of Nevada’s parole population were obtained using NDOC reports, while NPP officer survey responses refer to officers’ observations of caseloads that include both types of community supervision: probation and parole.

date. The data were pulled from the first available report each month from July 2019 through December 2021. Data showed a 20 percent rise in Nevada’s parole population from the onset of COVID-19 in March 2020, when there were just under 4,000 individuals on parole, to a peak in November 2020 at 4,784 people (see Figure 14). This increase corresponded with the increase in parole hearings between June and August 2020 (see Figure 11). Since November 2020, the parole population has gradually declined, with 4,180 individuals on parole by December 2021.

Figure 14. NDOC data show a 20 percent increase in parole population during COVID-19



CJI also surveyed NPP officers about changes in caseloads during COVID-19 compared to before the pandemic. While NDOC reports showed an influx in parole population during COVID-19, survey data indicated little change in caseload sizes. When asked to estimate their caseload sizes before and during COVID-19, officers reported slightly higher caseloads during COVID-19 (102 supervisees on average per officer) compared to pre-COVID-19 (92 supervisees on average per officer). By the fall of 2021, when the survey was administered, the per-officer caseload had returned to pre-COVID-19 numbers, at around 91 supervisees per officer.<sup>55</sup>

<sup>55</sup> Officer responses varied considerably depending on supervision type. During COVID-19, officers assigned to low-risk supervision (LRSU) reported as few as 120 supervisees while officers assigned to intensive or high-risk supervision reported as few as 30 supervisees.

## SYSTEM IMPACTS

### Introduction

In addition to the quantitative data described above, CJI collected qualitative data in the form of interviews with justice system practitioners and stakeholders throughout the state. Each practitioner was forced to adjust to the extraordinary circumstances the pandemic created. Below is a summary of some of notable findings from these interviews, as they relate to several different segments of Nevada’s justice system.

### Law Enforcement

- **Departments focused their limited resources on more serious offenses**
- **Drug and mental health calls increased**
- **Officers reported a need for more behavioral health alternatives**

A combination of changing crime rates, staffing shortages, and policy responses designed to protect public health impacted Nevada policing during the pandemic. In early 2020, statewide lockdowns, combined with reductions in tourism throughout Clark County and the rest of the state, contributed to a reduction in calls for service.<sup>56</sup> This was met by staffing shortages brought about by large numbers of officers out sick due to the pandemic. In addition, law enforcement agencies introduced a range of practices and policies designed to limit unneeded in-person interactions, but they did so largely on an informal and unwritten basis. These included using citations whenever it was safe to do so, while reserving custodial arrests for individuals charged with committing serious offenses or allegedly engaging in activity that posed an immediate threat to public safety. These policies were motivated by a few different factors, including staffing shortages and a desire to protect officers and the public from contracting the virus during street encounters.

Law enforcement practices to reduce unneeded in-person contact were localized and department-specific. Some agencies triaged calls for service and primarily responded to those with a determined public safety flag (e.g., prioritizing calls involving a threat of injury over calls reporting a public nuisance), and referred calls that did not require immediate intervention to public health agencies. Other departments halted or delayed the execution of lower-level arrest warrants, particularly for misdemeanor offenses that did not jeopardize public safety.

In addition to the aforementioned departmental policies, state lawmakers passed legislation in June 2021 that heavily favored the use of citations for ordinance violations, most traffic violations, and many state misdemeanors, with the exception of violent crimes, stalking, or driving on a canceled or suspended license.<sup>57</sup> Law enforcement officers continue to be restricted from issuing a citation if the violation is likely to continue or if there is an imminent threat of danger to another person or property. This increased discretion for law enforcement officers likely impacted the decline in court filings and prison admissions for low-level, nonviolent offenses.<sup>58</sup>

Another shift in law enforcement practices during the pandemic was related to calls for service where an individual displayed a behavioral health need. Stakeholders in Nevada shared that these kinds of calls increased during the pandemic. The state has a variety of mechanisms through which police officers can

<sup>56</sup> The Las Vegas Metropolitan Police Department (2020). [The Las Vegas Metropolitan Police Department 2020 Annual Report](#).

<sup>57</sup> Assembly Bill 440.

<sup>58</sup> See Figure 3 and Figure 6.

engage with individuals who have behavioral health needs in ways that are more likely to result in positive outcomes. These mechanisms include Crisis Intervention Teams (CIT), Mobile Outreach Safety Teams (MOST), Forensic Assessment Services Triage Teams (FASTT), and other programs. During the past few years, interest in CIT trainings and other programs has increased. However, during COVID-19, many of these trainings were canceled, postponed, or conducted virtually, which stakeholders generally believe is not as effective as in-person training. Moreover, the current capacity of most of these teams is limited and, as a result, they are often only able to respond to 40 to 50 percent of calls for service. This capacity was further reduced when some clinicians on these teams worked from home during the pandemic. Along with treatment providers having limited capacity due to social distancing or staffing issues, this made interactions with individuals in crisis and referrals to treatment more challenging. Interviewees felt strongly that in-person interactions are more effective at intervening in a crisis, but acknowledged that telehealth or virtual services are better than nothing.

Another change law enforcement experienced during the pandemic was an increase in calls for service to law enforcement for fatal and nonfatal drug overdoses. The Nevada Overdose Data to Action program reported that accidental drug overdose deaths increased by 55 percent between 2019 and 2020.<sup>59</sup> Stakeholders shared that this was likely due to an increase in fentanyl use, which is in line with national trends. Nationwide, there were more overdose deaths related to fentanyl in one year from April 2020 to April 2021 than overdose deaths caused by all types of drugs combined in the entirety of 2016, according to the CDC and the National Center for Health Statistics.<sup>60</sup> Nevada has leave-behind programs, including in Washoe County, where law enforcement and EMS can leave naloxone kits for overdose treatment in situations where they think opioids may be used. For example, if they have responded to an overdose and have reasons to believe it may happen again, they can leave naloxone kits with the individual who experienced the overdose or with family or friends to reverse potential future overdoses. While the pandemic created an even greater need for resources to combat overdoses, the use and availability of naloxone has been inconsistent across the state, stemming from officers' individual aversion to carrying it and a lack of funding for widespread access across the state.

Apart from the tools like naloxone, law enforcement typically has the authority to bring an individual who may have committed an offense but is experiencing mental health or substance use issues to a place where they can get treatment, medication, and other services. These types of centers include the Carson Tahoe Mallory Behavioral Health Crisis Center, where individuals can receive care without having to go to the emergency department or be booked into jail. Stakeholders shared that there are not enough places like this and that transporting individuals to one of the few centers can be difficult. During the pandemic, this became even more challenging due to treatment centers limiting the number of individuals for whom they could provide beds or treatment. Treatment providers had to balance mitigation methods such as social distancing with providing treatment to individuals in crisis.

## Prosecution

- **District attorneys prioritized prosecution of violent and sex offenses and showed some increased flexibility concerning dispositions of certain drug and property offenses**

Similar to law enforcement, the pandemic forced prosecutors' offices, to varying extents, to focus their resources on the most serious cases. During the first wave of the pandemic in spring and summer of 2020, the Clark County District Attorney's Office established a special unit to screen cases for

<sup>59</sup> Dobbins, A. (2021, October 7). [Drug overdose deaths increase in Nevada](#). *Nevada Today*.

<sup>60</sup> Keating, D., & Bernstein, L. (2021, November 17). [100,000 Americans died of drug overdoses in 12 months during the pandemic](#). *The Washington Post*.

prosecution, prioritizing those that involved injury or harm to others. Interviews revealed that other counties made efforts to prioritize cases involving an imminent public safety risk, though they did not establish a separate unit. Accordingly, both the AOC and Eighth Judicial District felony case filing data show the largest percentage of cases filed during the pandemic were for person-based offenses. While there was a clear shift in focus, prosecutors’ offices did not establish formal policies; the changes occurred predominantly through unofficial policy or at the discretion of individual prosecutors and judges.

Practitioners also generally agreed that prosecutors displayed increased flexibility concerning plea agreements for nonviolent and non-sex offenses. Interviews revealed this was largely driven by an effort to dispose of cases quickly in light of the backlog and reduce density during a pandemic by reserving prison and jail beds for individuals who pose a risk to public safety. This increased flexibility included offering more probationary sentences to incentivize pleas, which is reflected in court data. For example, in the Eighth Judicial District Court, more than 58 percent of drug dispositions were sentenced to probation, compared to 45 percent for drug dispositions sentenced to probation before the pandemic. The percentages of cases where individuals were sentenced to probation also increased for property and person offenses, but to a lesser degree. For sex offenses, the use of probation was similar before and during the pandemic.

## Courts

- **A widespread shift to remote practice paid dividends in efficiency but presents risks concerning a backlog and the viability of some convictions**
- **Continuances and closures added to existing court backlogs**
- **Specialty Courts recorded a higher incidence of behavioral health issues and reduced completion rates**

As the pandemic began, most Nevada courts limited in-person court proceedings. The state’s largest judicial districts in the Eighth and Second Judicial District Courts closed in-person operations between April and September of 2020, utilizing remote participation where feasible. Since June 2021, both courts have fully reopened and resumed a more regular schedule, but they still maintain remote hearings for certain types of cases or proceedings.<sup>61</sup> In addition to physical court closures and remote hearings, all courts, to varying degrees, continued cases to avoid compromising the health of individuals involved in court proceedings. Stakeholders shared that courts attempted to focus continuances largely on cases where the defendant remained out of custody, but many in-custody cases were also delayed. Justice Courts never completely shut down, due to the immediate need to arraign newly arrested people; however, AOC data showed that pending caseloads grew as processes slowed.

Stakeholders noted some benefits and disadvantages of remote proceedings. On one hand, remote proceedings allowed for physical separation among the parties at a time when it was critical for public health. Attorneys and judges noted the benefits of having a more flexible schedule, as well as the elimination of wasted time waiting for cases to be called. Discussion with individuals from the impacted community revealed a preference for remote hearings in reducing some of the barriers to getting to court, including work, childcare, transportation, and, in rural areas, distance.

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<sup>61</sup> The extent of the shift to remote hearings varied by county; for example, despite some exceptions, such as suspending jury trials, the Third Judicial District Court otherwise continued in-person appearances for all essential cases and permitted in-person appearances for non-essential cases in March 2020. See: [The Third Judicial District Court of the State of Nevada, Administrative Order 20-01](#) (March 17, 2020).



On the other hand, several interviewees discussed challenges inherent to remote hearings. Defense attorneys expressed frustration with being unable to speak to their clients directly before, during, or after a hearing, which they said is critical to preparing a defense. Both prosecutors and defense attorneys expressed concerns around introducing testimonial evidence over a remote session, believing that some of the persuasive value of the evidence was lost. Some defense attorneys believed that during remote sentencing hearings (as well as parole or probation violation hearings), the lack of physical proximity between judges and the defendant could sometimes lead to a tougher sentence, or a higher likelihood of revocation. Some practitioners in rural areas suggested a centralized location where people could appear to testify that might be more geographically convenient than the court of relevant jurisdiction, such as a library or other government building.

In addition to shifting to remote proceedings, the pandemic significantly hampered the process of preparing a criminal case. Defense attorneys reported that collecting evidence, finding and interviewing witnesses and strategizing with clients made it difficult to adequately represent their clients. Similarly, prosecutors often needed to wait longer for evidence to arrive, due to pandemic-related delays at the state lab, as well as challenges with coordinating witnesses. Prosecutors and victim witness advocates reported difficulties in connecting with crime victims and facilitating their appearance in court, especially in rural areas. This resulted in cases taking longer to go through the court process. As described earlier, data from the AOC show the number of felony cases older than a year increased by 370 percent between 2019 and 2020.

While closures and continuances were a necessary response to the pandemic, delayed dispositions have also created challenges for the courts. One that has persisted is the growing number of unresolved cases added to a backlog that is straining resources, especially in Clark County. (Courts around the country are facing this problem, according to a report from the National Center for State Courts.<sup>62</sup>) Of the more than 23,000 cases filed in Nevada’s Eighth Judicial District (primarily Clark County) between July 2018 and June 2021, 5,509 had yet to be disposed by August 2021.<sup>63</sup> Of the pending cases, 79 percent involved felony charges. Roughly 1,650, or 38 percent, of those pending felony cases were person-based offenses, with 244 categorized as either murder, attempted murder, or conspiracy to commit murder. Even before the pandemic, prosecutors and defense attorneys in Clark County had heavy caseloads. After the pandemic-related continuances, several reported their caseloads increased significantly. The number of case filings and open cases are stark compared to estimates from the Second Judicial District (Washoe County). Between July 2018 and June 2021, those courts saw just over 5,000 cases filed. Exploring open caseloads as of June 30 of each year, data showed that the Second Judicial District’s pending caseloads were notably lower in 2020, with 428 open cases compared to the 550 open case average from the two prior years. As of June 30, 2021, however, there were 709 open cases in the Second Judicial District, 78 percent of which were felony filings. Still, in Washoe County and the rural counties, caseloads were a less significant issue, and practitioners there generally reported optimism that the courts can catch up and return to the normal flow of cases during 2022.

To alleviate the backlog, courts began implementing new policies to resolve cases faster, the first of which concerned modifications to criminal trial stacks. In the spring of 2021, court leadership in both Clark and Washoe counties implemented a new procedure for cases that were ready for trial. This involved a standing session with a minimum of six to 10 cases scheduled and strongly presumed to

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<sup>62</sup> Court Statistics Project. (2022, January 12). [2020 Incoming Cases in State Courts](#).

<sup>63</sup> The Eighth Judicial District data file used for these analyses captured cases filed between July 2, 2018 to June 30, 2021. The latest disposition date is August 9, 2021.

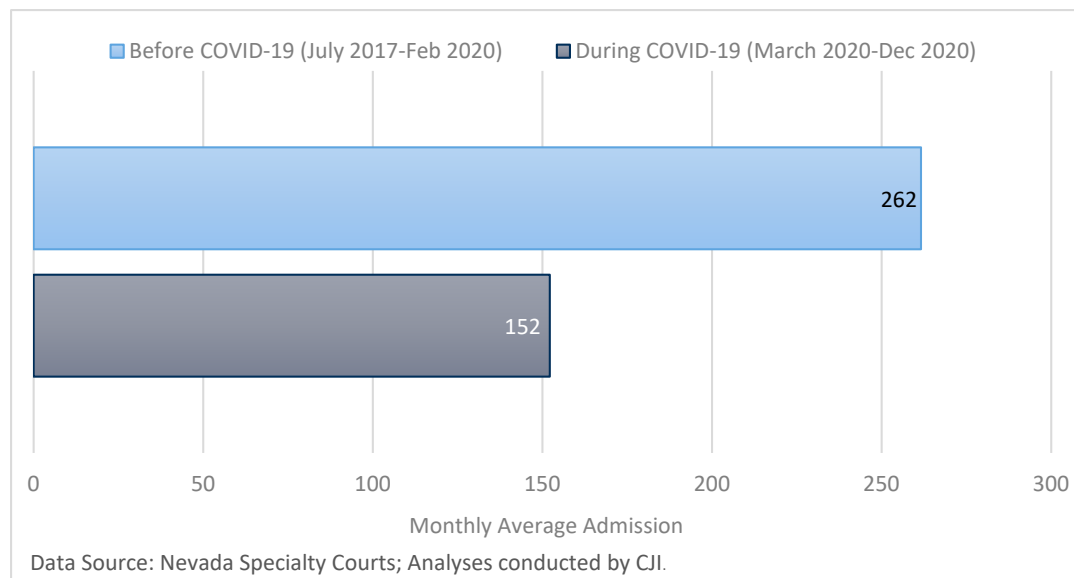


proceed, a higher number than before the policy was implemented. The court uses set factors to rank the scheduled cases in order of their readiness and suitability for trial, with the most significant factors being whether the defendant is currently incarcerated, and whether the defendant invoked their speedy trial rights at first appearance.<sup>64</sup> There is widespread agreement in both counties that the new trial stacks have had a positive effect and accelerated the pace of dispositions.

In addition to these expedited trial sessions, the Eighth and Second Judicial District Courts, as well as some Justice Courts, have developed new ways to facilitate pretrial plea agreements. Courts have primarily done so by holding mandatory settlement conferences between the parties in cases that are 60 or fewer days from their scheduled trial date. Judges in Clark County who preside over such hearings report a high rate of resolution for such cases. Involved parties agree that the settlement conferences aid in expediting case resolutions, and at least one practitioner believes that this procedural step can lead to generally fairer dispositions than would be reached following a trial verdict.

Lastly, beyond changed court processes, data show the pandemic brought shifts in the reliance on diverting individuals to Specialty Courts during the pandemic. During the pandemic, utilization of Specialty Courts decreased, with a 42 percent decline in average monthly admissions (see Figure 15). This was largely in step with decreased court filings overall. The reduced admissions to Specialty Court were particularly significant given the increase in percentage of those entering the programs who had behavioral health needs. During the pandemic, there was a 21 percent increase in the proportion of admissions with mental health histories, a 21 percent increase in those with prior substance use treatment, and a 6 percent increase in the proportion of individuals who were unemployed.

*Figure 15. Specialty Courts' average monthly admissions went down 42 percent during COVID-19*



Aside from reduced admissions, the rate of successful completion of Specialty Court programs also dropped during COVID-19, outpacing the decline in admissions and dropping by half, to a success rate just under 30 percent (see Figure 16). Interviews indicated that staff noticed a sharp increase in

<sup>64</sup> NRS § 178.556.

absconding<sup>65</sup> in the initial months of the pandemic, particularly among the high-risk and high-need population, but they reported that this did not remain the case for long. As for case outcomes among the smaller percentage of successful Specialty Court completions during COVID-19, case dismissals became increasingly common (see Figure 17).

Figure 16. The Specialty Court successful completion rate dropped 50 percent during COVID-19

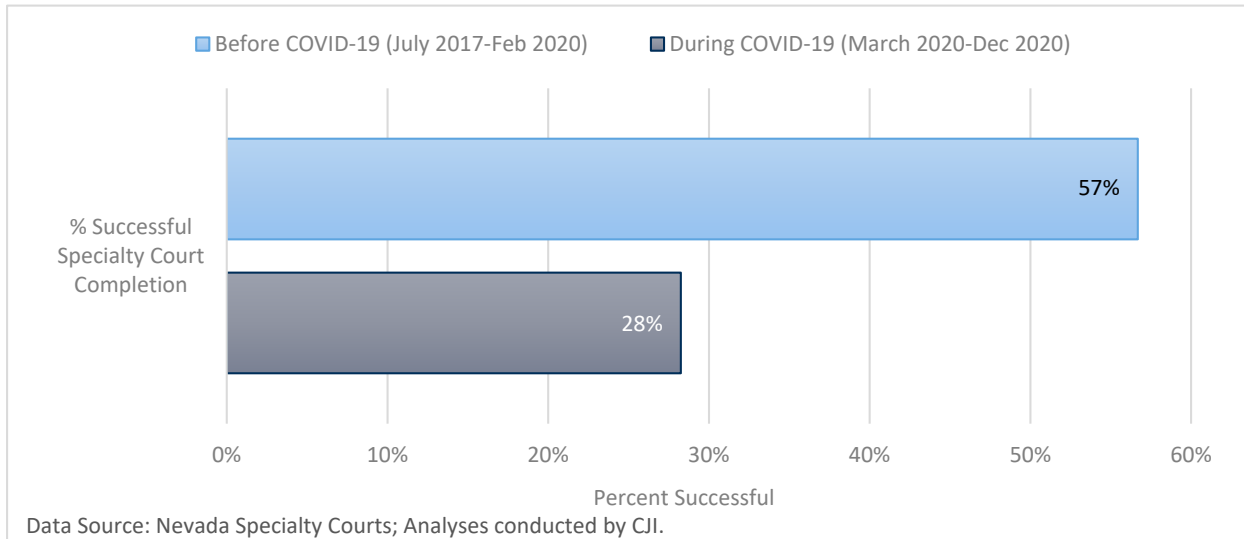
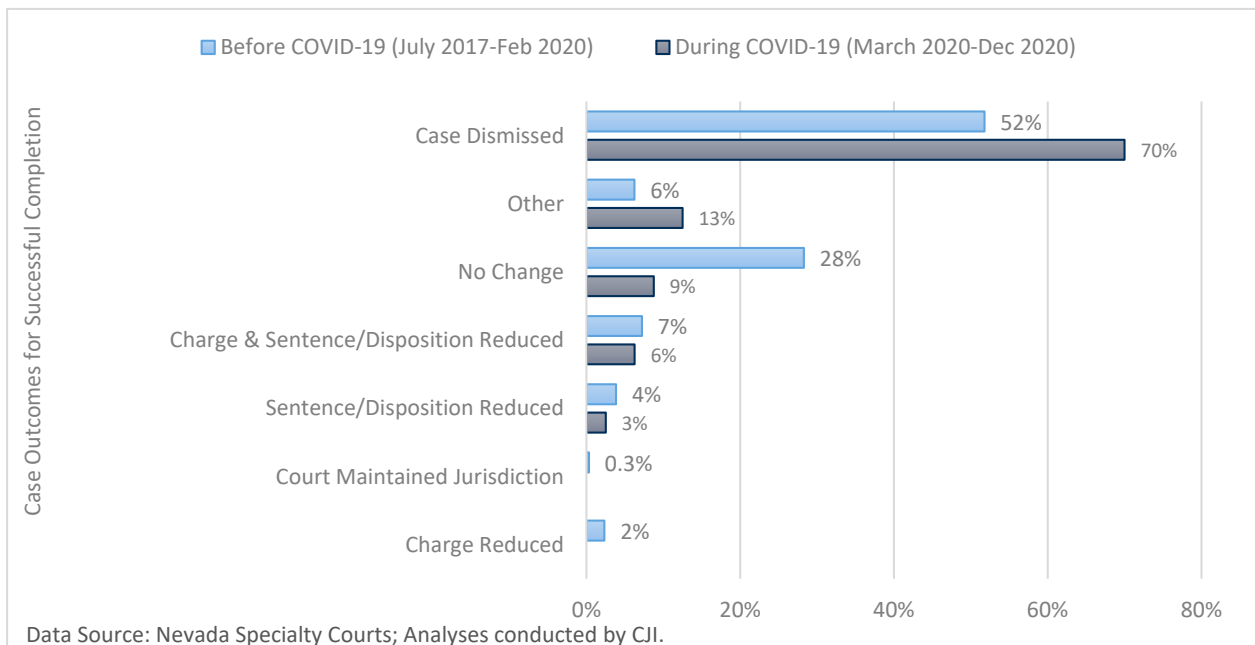


Figure 17. A greater share of case dismissals are among those who successfully completed Specialty Court during COVID-19



<sup>65</sup> Data findings support staff reports, showing a greater share of absconding as reason for Specialty Court failure during COVID-19. Before COVID-19, absconding accounted for around 16 percent of failure reasons; during COVID-19 it rose to more than 23 percent.

## Corrections

- **NDOC collaborated with the Nevada Division of Public and Behavioral Health to establish a “firewall strategy” that included screening processes, reduced exposure by limiting external contacts, and restricted movement within facilities**
- **The firewall strategy was not accompanied by any effort to reduce the population of NDOC facilities**
- **The implementation of CDC-recommended practices for the prevention of institutional virus transmission proved very challenging in a corrections setting**
- **Some of the implemented policies – including prolonged lockdowns, limited contact with external support systems, and reduced programming – had adverse effects on the mental health and wellbeing of incarcerated people**
- **With prison medical staff diverted to respond to COVID-19 patients, access to medical care and behavioral health support for the general population became more difficult**

### ***The firewall strategy***

The Nevada Department of Corrections’ (NDOC) initial approach to protect its staff and incarcerated people from the spread of COVID-19 was referred to as the firewall strategy. It was developed and implemented in March 2020 by NDOC administrators in conjunction with staff from the Nevada Division of Public and Behavioral Health (DPBH). As a result of this collaboration, NDOC established a new institutional admissions procedure and staff screening process, consisting of temperature checks, a verbal COVID-19 assistance questionnaire, visual symptoms observation, mandated nose and mouth coverings, and a mandatory reporting requirement for any staff member or incarcerated person who displayed symptoms.<sup>66</sup> If during one of these screenings an incarcerated person was symptomatic or tested positive, they were initially moved to isolation for 14 days, a period that was later changed to 10 days following updated CDC policy guidance. If the symptomatic or positive person was in a dorm setting, the other individuals in the dorm would be monitored for symptoms but not tested. Likewise, any staff member who was positive or symptomatic at screening would be required to quarantine for the 14-day, and later 10-day, period. The strategy also prohibited all outsiders from coming into institutions to avoid potentially exposing incarcerated individuals. This resulted in stops to all visitation, nearly all in-person programming, and a presumptive halt of all but the most critical inter-facility transfers. The firewall strategy also restricted movement within the facilities in the form of lockdowns of incarcerated people. There was also a severe reduction of recreation time, religious services, and prison libraries.

### ***Challenges with implementation***

This firewall strategy proved difficult to implement in a corrections setting and created several challenges within institutions. First, the necessity to keep certain classes of incarcerated individuals separate from others – for example, those who are at a high risk of engaging in violent misconduct – limited opportunities to achieve meaningful physical separation. Second, a lack of information about the pandemic or the rationale for the policy changes created an environment of distrust and sometimes noncompliance among people in custody. Interviews suggest that requests for information by incarcerated people through inmate request forms (known as Kites) received inconsistent replies and sometimes went unanswered. Interviewees also noted that their confusion was exacerbated by observing practices that conflicted with policies such as the fact that some transfers between facilities

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<sup>66</sup> State of Nevada Board of Prison Commissioners. (2020). [[Board of State Prison Commissioners meeting minutes](#)].

still occurred and mask wearing was not consistently observed across the facilities, both by staff and individuals in custody.<sup>67</sup> Third, the staffing shortages NDOC experienced throughout the pandemic presented an additional challenge to the effective implementation of the policies. In January of 2022, prison officials stated that there was a 25 percent vacancy rate among custody staff, which was a significant increase from 9 percent at the start of the pandemic.<sup>68</sup>

### ***Impact of policies on incarcerated individuals***

While conceived to protect the physical health of people in custody, some pandemic policies had adverse impacts on the mental health of people incarcerated. One example was the significant amount of time spent in lockdown. Interviews with stakeholders indicated that the use of lockdown periods increased significantly during the pandemic, along with access to recreation, work detail, programming, religious services, and law libraries. Some interviewees reported that individuals got a total of six or seven hours of access to outside space across a period of 10 months.

This isolation was compounded by the halt of in-person visitation. NDOC suspended all visitation between March 2020 and May 2021, and it has since been discontinued in response to flare-ups of the virus, with one statewide suspension as recent as January 6, 2022.<sup>69</sup> To compensate for the absence of visitation, NDOC allowed two free phone calls per week.<sup>70</sup> However, interviews revealed that there was high demand for the phones, often making them unavailable, and that call times were scheduled during unusual hours, often in the middle of the night. This lack of connection to the outside is significant, as research shows that pro-social behavior achieved through programming or existing relationships is an important element of recidivism reduction.<sup>71</sup> Studies have shown that visits are integral in promoting an incarcerated person’s mental health by reducing stress, maintaining family bonds, and supporting a connection to their larger community.<sup>72,73</sup>

In addition to the halt of visitation, the pandemic rendered in-person programming unavailable. NDOC stopped nearly all in-person programming for at least nine months (from March 2020 to April 2021), with some types of programming taking over a year to resume.<sup>74</sup> For instance, NDOC halted educational programming in March 2020 and in the majority of facilities it did not return for over 16 months. There was an effort at some facilities to provide people with packets to complete toward their educational

<sup>67</sup> While the Governor issued a mask mandate across the state in April 2020, [NDOC](#) did not require staff wear masks until June 2020.

<sup>68</sup> Rindels, M. (2022, January 25). [With 1 in 4 officer jobs vacant, employees say prison staffing dangerously low](#). *The Nevada Independent*.

<sup>69</sup> Nevada Department of Corrections (n.d.). [Home](#) [Facebook page]. Retrieved January 6, 2022.

<sup>70</sup> State of Nevada Department of Corrections. (2022, January 25). [NDOC COVID-19 Updates](#).

<sup>71</sup> Duwe, G. (2017 June). [The use and impact of correctional programming for inmates on pre- and post-release outcomes](#). National Institute of Justice.

<sup>72</sup> Minnesota Department of Corrections. [The effects of prison visitation on offender recidivism](#). National Institute of Corrections.

<sup>73</sup> Multiple staffers at reentry services organizations reported observing significantly lower morale and a higher incidence of mental health issues among people exiting NDOC custody, and they feared that the difficult conditions inside facilities during the pandemic could have an adverse impact on future recidivism.

<sup>74</sup> There were effectively four categories of NDOC programs available to incarcerated people before the pandemic: educational, mental health-focused, reentry-focused, and drug treatment-focused, as required by the therapeutic communities statute. See NRS 209.4237. Almost all of these programs were shut down for extended periods during the pandemic, at least for months and in some cases for over one year. In some facilities, drug treatment programs run by NDOC staff were able to continue, but less frequently and with smaller class sizes.

certificate, in lieu of in person classes. However, credit for packet completion was not always awarded, due to an inability to discern whether people were themselves completing the packet assignment.

An additional collateral consequence of the limited programming was its potential to extend prison stays for individuals in custody. Under Nevada law, individuals who committed an offense on or after July 17, 1997, are permitted to earn 10 days of credit per month for meritorious behavior, in addition to a lump sum of 60 days of credit for educational programming, 90 days for a high school diploma, and 120 days for completing their first associate’s degree.<sup>75</sup> Without programming opportunities, individuals in custody could not participate or earn credits to reduce their sentences. Because credits may not be earned by people convicted of more serious Category A or B felonies, the absence of credits only adversely impacted those convicted of Category C, D, or E felonies.<sup>76</sup> The Legislature targeted these concerns through passage of AB 241 in the 2021 legislative session. The bill retroactively allotted individuals incarcerated during the pandemic an additional 5 days per month not to exceed 60 total days total. The purpose of the legislation was to in part compensate for these loss of programming credits.

### ***Access to medical care***

In addition to the challenges noted above, access to medical care for incarcerated people during the pandemic was reduced. In more normal times, people connected with medical providers by submitting an inmate request form and medical staff approved or disapproved the request and determined follow up care.<sup>77</sup> NDOC staff shared that in some facilities, medical staff had to largely shift away from chronic care to focus on COVID-19 screening. Staff also had to triage which medical concerns were the most serious to address, which resulted in many Kites going unanswered or unaddressed for months. During the pandemic, NDOC contracted with nursing staff to help with COVID-19 testing, which allowed other medical staff to continue providing other services. Finally, NDOC continued to charge incarcerated individuals for medical care, a cost that most states across the country waived during the pandemic.<sup>78</sup>

Lastly, while the Department made all staff and those in custody eligible for vaccination as soon as it was available, access to the vaccines and trust in them remains a challenge across the state’s prisons. Interviews revealed that incarcerated people are required to submit a vaccination request, and that the timeline from submitting the request to being administered a vaccine was sometimes over a month. In many cases, incarcerated individuals would be charged fees for their vaccination. As of October 20, 2021, NDOC reported that 64.74 percent of incarcerated individuals were fully vaccinated.<sup>79</sup>

### ***Behavioral health in correctional institutions***

The high prevalence of behavioral health needs among individuals in custody increased during the pandemic. The percent of individuals in need of mental health treatment and admitted to NDOC custody during COVID-19 (March through December 2020) was higher than the preceding 14 months (see Figure 18). NDOC data showed that just over 18 percent of people in NDOC custody on May 30, 2020, had affirmative mental health indicators; a year later this was up to 19 percent. For both years, over 90 percent of those with affirmative mental health indicators were further classified as having “mild impairment” and needing follow-up mental health services but not necessitating custody placements.

<sup>75</sup> Nev. Rev. Stat. Ann. § 209.4465

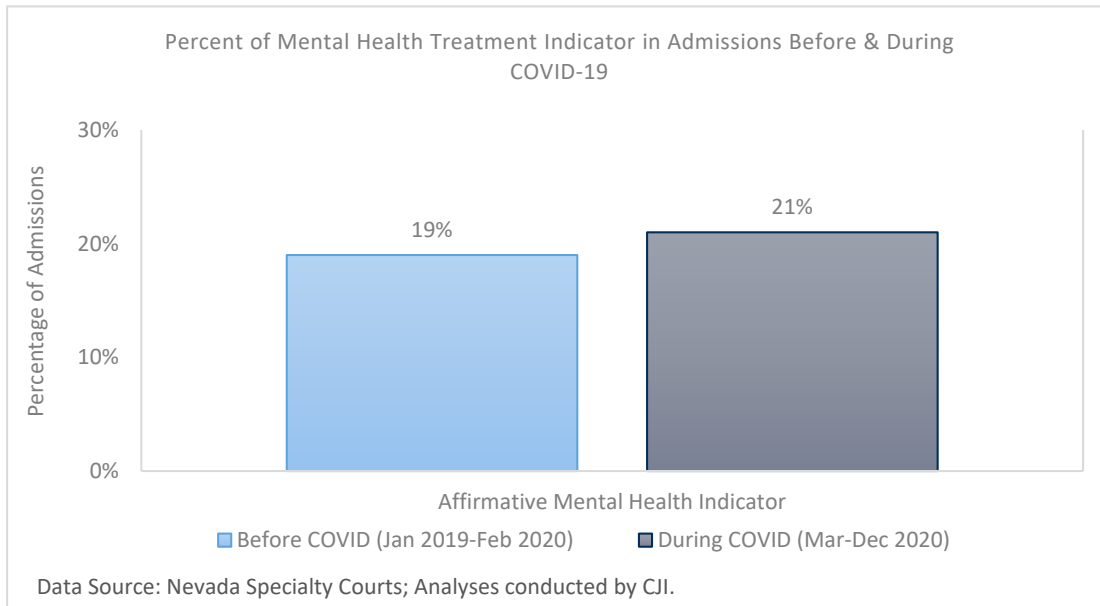
<sup>76</sup> Id.

<sup>77</sup> Nev. AR 600, [https://doc.nv.gov/uploadedFiles/docnvgov/content/About/Administrative\\_Regulations/AR%20600%20-%20040811.pdf](https://doc.nv.gov/uploadedFiles/docnvgov/content/About/Administrative_Regulations/AR%20600%20-%20040811.pdf) (last visited May 19, 2015)

<sup>78</sup> Herring, T. (2020, December 21). *Prisons shouldn’t be charging medical co-pays – especially during a pandemic*. Prison Policy Initiative.

<sup>79</sup> Nevada Department of Corrections. (2021, October 25). *Board of Prison Commissions October 25, 2021* [Video]. YouTube. <https://www.youtube.com/watch?v=8unzPsB5Vec>

Figure 18. Slight increase in the portion of NDOC admissions indicating prior mental health treatment at admissions



These classification percentages are significant in that during the pandemic those in specific mental health housing received continued treatment while those whose treatment was classified as follow-up received limited services as staff was diverted to COVID-19 care. Nevada’s correctional system has housing units specifically for individuals with mental health or substance use disorders, including therapeutic communities in NDOC facilities. Interviews revealed that these specialty units were able to maintain most of their regular programming because it did not require individuals to move throughout the facility. However, while those who were already in these units were able to stay engaged in programming and services, stakeholders shared that it was difficult to introduce new individuals. Facilities throughout the state were limiting transfers, and intake facilities lack the capacity for therapeutic communities. Thus, individuals entering the prison system during the pandemic who may have been eligible for such housing could not participate. As a result, program numbers decreased for these units, and fewer individuals were able to take advantage of the services offered in them. Concerning programming overall, research indicates that access to and participation in counseling and other programs is crucial to the mental health and well-being of those in custody, especially during times of heightened stress.<sup>80</sup>

Looking specifically at mental health services in jails, it was also more difficult to maintain the status quo. In the Las Vegas Municipal Jail, for example, wellness fairs with community partners are typically offered for incarcerated individuals to connect with post-release job opportunities. The jail also usually holds AA meetings, but stopped both the wellness fairs and AA meetings for several months due to growing restrictions. Before COVID-19, if an incarcerated individual was experiencing psychosis and refusing treatment, jails had the means to send them to the hospital. However, during the pandemic, hospitals had stricter capacity limits, so it was difficult to provide care for individuals in crisis. Group therapy sessions were also suspended for a time, including self-regulation, values clarification, and anger management. In some areas of the state, programs such as MOST and FASTT are able to connect

<sup>80</sup> Morgan, R. D., Kroner, D. G., Mills, J. F., Bauer, R. L., & Serna, C. (2014). Treating justice involved persons with mental illness: Preliminary evaluation of a comprehensive treatment program. *Criminal Justice and Behavior, 41*(7), 902-916.

incarcerated individuals to services by going to jails and meeting with individuals who will be released in the near future. Interviewees expressed that during the pandemic, some of these teams were unable to enter the jails and therefore they could not easily provide needed services to individuals preparing to release from incarceration.

Typically, individuals entering NDOC custody are assessed for their mental health status to identify any impairment, medication, or therapy needs. Based on this evaluation, they may share recommendations with mental health staff or refer the individual for further treatment and evaluation when needed. The recommendations may result in certain housing or programming assignments, or transfer to another institution, depending on the capacity for a facility to serve the individual.<sup>81</sup> At the height of NDOC COVID-19 surges, instead of the full evaluation process, mental health staff initiated door-to-door welfare checks to see how incarcerated individuals were tolerating the lockdown. While this practice enabled staff to assess the needs of incarcerated individuals, it also presented challenges in terms of privacy and willingness for individuals to open up and express needs. In addition, stakeholders with lived experience in the justice system shared that these checks did not happen with frequency or regularity.

### **Reentry**

A key part of reducing the number of individuals coming into the justice system is ensuring that individuals leaving incarceration have access to appropriate reentry supports. During the pandemic, staff shortages presented a significant barrier to preparing for individuals' reentry from NDOC facilities. Nevada statute requires NPP and NDOC to collaborate in developing a reentry plan six months prior to an individual's release on parole.<sup>82</sup> This has been extended by practice to apply to all individuals being released from NDOC custody and not just those being released to parole. The plan focuses primarily on establishing housing opportunities for individuals, but it also sets up necessary treatment and job readiness programming. NDOC staff meet regularly with individuals in custody to develop the plan. As noted above, access to individuals in custody was limited during the pandemic as housing units were quarantined and facilities did not have enough staff to escort individuals to staff offices. Additionally, NPP staff did not work in the facilities during the pandemic, and their role in facilitating contact with parole services prior to release was unavailable. Interviews noted many situations where the Parole Board approved an individual for parole, but because the person was unable to find housing, their reentry plan was not approved and they were not released from NDOC custody. The data on how many individuals currently in prison who have been granted parole were unavailable for analysis.

Aside from challenges in developing the reentry plan, the pandemic made finding transitional housing significantly more challenging. Prior to COVID-19, transitional housing was already limited, and during the pandemic these opportunities further diminished. Additionally, anywhere that did have capacity required a two-week quarantine before entry, raising the unanswered question of where was a person released from prison or jail supposed to go in the interim.

Lastly, state statute requires NDOC to provide individuals leaving prison with identification, clothing, transportation, Medicaid and Medicare enrollment paperwork, and a 30-day supply of medication if they were receiving it while in custody.<sup>83</sup> In addition to these items, during the pandemic, NDOC administered a COVID-19 test upon release. This policy ideally would allow individuals in custody to return to their family or other housing arrangements with proof they were not carrying the virus; however, interviewees noted that individuals rarely received their test results prior to release.

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<sup>81</sup> There was only one observation in 2020 or 2021 of "severe impairment" requiring special housing and ongoing treatment.

<sup>82</sup> NRS § 213.140.

<sup>83</sup> NRS § 209.511



## Community Supervision

- **Due to reduced staffing and a desire to reduce in-person contact, Nevada Parole and Probation (NPP) shifted to a more remote supervision model, including online and phone check-ins and fewer home visits**
- **NPP focused its resources on higher risk supervisees – in line with national best practices – by reserving closer, more frequent supervision for those with demonstrated needs for closer surveillance**

COVID-19 had a significant impact on how Nevada’s Division of Parole and Probation (NPP) operated. Supervision traditionally required regular in-person check-ins, largely occurring at NPP Field Offices. At each of these check-ins, a supervision officer would review a monthly worksheet with the individual they were supervising, administer necessary drug tests, and generally assesses how the person doing with completion of and adhering to their supervision conditions. In addition to these check-ins, officers also conducted home check-ins where they visited the individual’s residence. Following state-wide orders prohibiting or disfavoring in-person activities to maximize social distancing, these in-person meetings were more difficult to hold, and NPP transitioned to contactless supervision for most supervisees. While NPP already had remote supervision for its lowest category of supervisees, the transition to virtual supervision for its entire population was a significant change.

Supervision officers responded to this shift in a variety of ways. Some cited going remote as the largest challenge during the pandemic, feeling that it was an inadequate replacement for in-person meetings and less effective at assessing compliance. They noted concerns over whether or not individuals on supervision were exploiting the pandemic and citing symptoms of COVID-19 as a rationale for noncompliance. Others applauded the technical improvements made during COVID-19 without diminishing the quality or effectiveness of supervision. Three out of four survey respondents noted the utility of electronic report submission and, for their supervisees, the utility of remote court or counseling sessions.

Likewise, feedback from individuals on supervision expressed that virtual check-ins created substantially more flexibility. It allowed them to stay connected with supervising officers without experiencing the challenges they did before COVID-19, including travelling to the office, interrupting a work schedule, and inability to get child care, among others. Individuals on supervision indicated that getting to and from an office check-in were significant hurdles that made it difficult to maintain good communication with supervisors and sometimes led to missing meetings.

Another aspect of NPP’s work that was significantly impacted by the pandemic was the presence of agency staff within NDOC facilities to assist with release planning. Stakeholders reported that prior to COVID-19, NPP staff would regularly visit prisons to meet with incarcerated people and NDOC caseworkers to facilitate eventual release. Since the onset of the pandemic, this work has largely been put on hold, and a system has not been created to allow such visits to occur remotely.

Similar to the added flexibility surrounding check-ins, during the pandemic NPP officers increasingly used discretion in responding to violations. This discretion was supplemented with a reduction in in-home residence checks and temporary halts of drug testing. Further, both the courts and NPP gave the directive to reserve revocation for serious misconduct; surveyed officers overwhelmingly agreed that their time and resources were spent on more serious offenses during COVID-19. Despite focusing on serious offenses, when asked about the most common violations observed during COVID-19, surveyed



officers still overwhelmingly reported substance use-related activity driving revocations. This was particularly true for violations that did not involve a new charge, with 66 percent of officer responses referencing some aspect related to substance use, ranging from alcohol violations to controlled substance relapse as the most common violation that did not involve a new charge observed during the pandemic. This was also true for new crime violations during COVID-19, with nearly one in three survey entries citing possession of a controlled substance as a most common new criminal offense.

Given the emphasis of focusing time and resources on serious misconduct, surveyed officers reported a decline in supervisee revocations during the pandemic, despite filing a similar number of violation or incident reports as before COVID-19. Officers shared that if someone was consistently checking in and their supervisor knew how to get in touch with them, officers were willing to work through any setbacks and barriers using the graduated sanctions matrix.<sup>84</sup> Discretion, with the clearly identified goal of keeping individuals out of prison unless they presented a public safety threat, allowed officers to think critically about misconduct and evaluate the appropriate response using the graduated matrix as a resource. Data on NDOC admissions during COVID-19 offer additional evidence of such practices, showing a 26 percent decline in average monthly admissions of individuals with parole violations that did not involve a new conviction alongside a 30 percent decline in admissions for probation violations that did not involve a new conviction, with 25 to 33 fewer admissions each month, respectively (see Figure 7). This trend is also supported by data from the Eighth Judicial District, Nevada’s largest district. Among cases with probation revocation hearings dates before COVID-19, 65 percent were revoked. For cases with probation revocation hearings during COVID-19, 61 percent were revoked. Despite a larger share of pending probation hearings, the percentage of cases where the probation was revoked after a final hearing further decreased to 36 percent during the first six months of 2021. Furthermore, during the first half of 2021, a greater percentage of hearings resulted in probation being reinstated compared to being revoked, which was not found before or during the pandemic.

Despite the reduction in violations that did not involve a new conviction occurring during the pandemic, there was still a sizeable number of individuals serving time in NDOC custody for such violations (e.g., technical violations or absconding). As of May, 31, 2021, 1,928 individuals were in NDOC custody for a violation of either parole or probation without new convictions, more than half for nonviolent prior offenses, like property (31 percent), drug (12 percent), or other offenses (12 percent).<sup>85</sup>

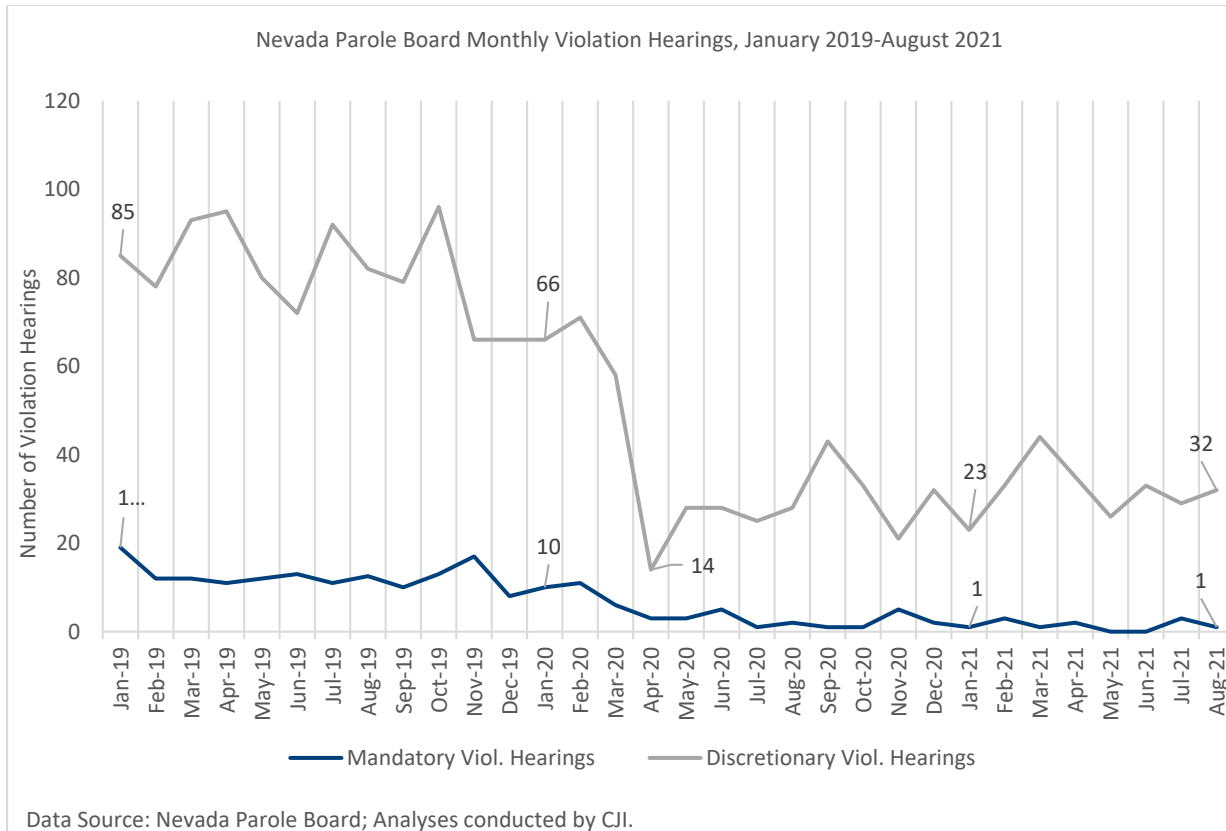
As for parole violation hearings, the Parole Board heard over 60 percent fewer cases during COVID-19 than in the 14 months prior (see Table 1), a difference of over 50 fewer parole violation hearings per month. This downward trend in number of violation hearings during COVID-19 continued to hold across the first half of 2021, with the average monthly number of violation hearings down nearly two-thirds from the 2019 average of 95 hearings per month to just over 30 (see Figure 19).<sup>86</sup> Interviews revealed that COVID-19 forced previously in-person parole violation hearings to go remote. The data findings, however, suggest that violations are occurring less frequently and additional hearings may be unnecessary at this time, especially when roughly 80 percent of all violation hearings, regardless of timing, involved cases designated as “moderate risk” and only 2 percent involved “high risk” cases.

<sup>84</sup> Over two-thirds of surveyed officers also reported increased use of graduated sanctions during COVID-19.

<sup>85</sup> The majority (n=1,182) were probation violations without new convictions, while 698 were violations without new convictions of discretionary parole. In both May 2020 and May 2019, there were similar distributions of non-conviction-related violators in NDOC custody – over 60 percent probation violations and under 40 percent parole violations – again, all violations unrelated to new convictions. COVID-19 does not appear to have impacted this distribution.

<sup>86</sup> It is worth noting that in any given year in the Parole Board data, a very small portion of parole violation hearings are mandatory, with discretionary hearings comprising around 90 percent of all hearings.

Figure 19. Parole violation hearings remained low after April 2020



Despite fewer parole violation hearings both during COVID-19 and over the first half of 2021, revocation rates actually increased in both periods. For instance, the estimated revocation rate for parole violation hearings before COVID-19 was around 74 percent; during COVID-19 parole revocations increased to 86 percent of violations and held at over 85 percent well into 2021. The higher revocation rates were clear across all risk levels both during COVID-19 and into 2021; however, a closer look at the offense types processed during these different timeframes showed a greater share of violation hearings for violent offenses during COVID-19. These more serious offense types were likely a contributor to the observed growth in revocation rates despite fewer hearings. Interviews revealed that defense counsel felt the new remote style for parole violation hearings resulted in worse outcomes for their defendants.

**Behavioral health for individuals on community supervision**

Often, individuals who are on probation or parole are required to engage in some kind of behavioral health treatment as a condition of their supervision. Many treatment programs and services shut down or at least reduced capacity during the pandemic. In some cases, this was due to an attempt to social distance and in other cases it was because of challenges in remaining fully staffed. The difficulty in remaining open at full capacity was particularly the case for residential treatment providers, such as Ridge House, Vitality, and STEP2. Ridge House, for example, serves almost exclusively justice-involved clients, and the program typically receive many more applications than it has capacity to accept. It was very challenging for most residential treatment providers to continue offering services as usual while also maintaining social distancing and other COVID-19 protocols. Requiring quarantine upon admission was a positive step toward limiting the exposure to and spread of COVID-19 within these centers, but it

did create many barriers to treatment provision and therefore the ability to serve the number of individuals in need of care. In some cases, this delayed an individual's release onto parole or otherwise affected their ability to comply with their conditions of release.

While many residential facilities struggled to maintain their usual capacity, most community providers of non-residential behavioral health services were able to quickly transition to providing virtual services once the implications and dangers of the pandemic were apparent. The proliferation of telehealth services was helpful for individuals who faced barriers to entering and staying in treatment, such as lack of transportation or childcare. In addition, stakeholders shared that less stigma is typically associated with engaging in virtual behavioral health services. However, they also expressed that telehealth was difficult for individuals who did not have access to appropriate technology and for individuals with high levels of behavioral health need. This was particularly true for justice-involved individuals.

## ASSEMBLY BILL 236

In addition to assessing the impact of COVID-19 on the state's justice system generally and prison population specifically, state leaders requested an evaluation of how the pandemic affected the implementation of AB 236 (2019). The legislation went into effect in June 2020, during the midst of the pandemic when all state and local operations were altered. This section examines the goals of the bill and discusses the ways in which they have been impacted by the pandemic. Many provisions, particularly sentencing or eligibility changes, went into effect unencumbered by COVID-19. However, the pandemic's drain of resources and staff did impact a few key areas of implementation, notably community supervision and reentry practices.

### ***Strengthening responses to behavioral health needs***

One of the key areas AB 236 addressed was expanding alternatives to incarceration for those with behavioral health needs. One way it accomplished this was by expanding eligibility criteria for participation in Specialty Court programs to include those charged with a crime that involved the use of force. NDOC admissions data reflects this change, with an 8 percentage point increase in the share of admissions to Specialty Courts of individuals charged with person offenses (largely involving use of force) during the pandemic. While the percentage of admissions to Specialty Courts for all other felony offense types decreased, the share of admissions for those charged with person offenses jumped from 12 percent of felony admissions to 20 percent during the pandemic.

In contrast, another mechanism to expand access to alternatives that was not utilized during the pandemic was deferred sentences for Specialty Court programs. The bill created this sentencing option to allow judges to dismiss cases once individuals successfully completed the program. However, Specialty Court data show that the use of deferred judgements dropped by over 50 percent during the pandemic compared to before. Stakeholders suggested this decline may be driven by a general reduction in court proceedings, particularly for nonviolent offenses, and a reluctance by judges to issue a sentence that would require program completion when such programs were unavailable due to COVID-19 closures.

In addition to expanding the alternatives available, AB 236 modified several policies relating to the interactions between law enforcement and those with a behavioral health needs. This included creating a grant program to incentivize partnerships between law enforcement and behavioral health specialists and a requirement that law enforcement agencies adopt crisis intervention protocols. By January 2021 the Peace Officer Standards and Training (POST) Director had secured funding through Justice

Reinvestment Initiative sub-award grants and selected a contractor to develop training protocols for standardized crisis intervention across the state. This contractor is also working on establishing the infrastructure for the grant program and looking for opportunities to fund it.

### ***Focusing resources on individuals convicted of violent offenses***

One of the key findings of the Advisory Committee on the Administration of Justice (ACAJ) in 2018 was that two out of three individuals coming into prison were convicted of a nonviolent offense. In an effort to reduce the number of people coming in on drug and property offenses, which were among the most frequent offenses at admission, AB 236 made changes including narrowing the burglary statute, raising the felony theft statute, and creating a clear distinction between users, sellers, and traffickers in the drug statute.

Interviews with judges and attorneys, as well as data from CCDC and NDOC, suggest that these changes went into effect without disruption from the pandemic. Looking at NDOC admissions, the data show the share of admissions for nonviolent offenses fell from 66 percent in 2017 to a monthly average of 61 percent from March to December 2020. Further, pretrial data from CCDC show that bookings of the broader drug, burglary, and theft offenses that were utilized in the pre-pandemic time period shifted during the pandemic to the new offense categories created under AB 236 during. The data show the logging of such offenses at bookings, illustrating a change in practice to match the new policy. The data CJI received do not provide the specific number of bookings for these new offenses to conduct any analysis on change in volume.

### ***Improving the efficiency and effectiveness of community supervision***

Apart from addressing admissions, AB 236 also introduced policies designed to reduce the number of individuals cycling through the system. The ACAJ found that in 2017, returns from community supervision largely drove the growth in admissions to Nevada prison. In effort to reduce recidivism, AB 236 applied evidence-based practices to the state's community supervision practices. This included requiring graduated sanctions, a risk and needs assessment to develop case planning, and revocation caps for technical violations in the form of limited custodial stays in increments of 30, 90, and 180 days for the first, second, and third violation, respectively. It is important to note that there were no data available from NPP for this report, so the information about implementation of these policies was derived from interviews with and a survey of NPP staff and supported by data from other agencies.

Overall, data from NDOC show a decrease in returns to prison for technical violations among individuals on both parole and probation during the pandemic. Comparing admissions for violations prior to the pandemic to during it, the data show a decrease for technical violations of those on parole by 26 percent and those on probation by 30 percent. Interviews suggest a variety of reasons for the decline. Some suggest that was due to was the informal NPP policy for officers to only prioritize violations that were a safety threat. Others noted that the reduction could be due to the decreased amount of contact officers had with individuals they supervised during the pandemic, which officers felt limited their ability to ascertain whether or not individuals were violating terms of their supervision. Further, several interviews with judges revealed an inconsistent approach to the use of technical revocation caps, with some jurisdictions acknowledging the change and others citing an approach that conflicted with the requirements of the legislation.

Looking specifically at the Parole Board's use of the revocation cap policy, the data show the Board is using the 30-, 90-, and 180-day revocation periods to respond to technical violations. By August 2021, the 30-day Revoke & Reinstate category had been utilized more than other categories, growing from an

initial 170 cases in the first half of FY2021 (July through December 2020) to 222 cases in the second half (January through June 2021). Of those 30-day Revoke & Reinstate cases, just over one-third involved individuals on parole for property-related offenses, while another 30 percent involved individuals on parole for violent offenses. As of the last date in the available data, both the 90-day and 180-day Revoke & Reinstate categories involved only a handful of cases but still mirrored the offense category patterns most often related to parole: property and violent offenses.

Despite the decrease in technical violations, NDOC data demonstrate an increase in admissions for individuals on probation with new criminal offenses. During COVID-19, there were approximately 4 more admissions per month, on average, of individuals on probation picking up a new B or C level felony property offense. Interviewees noted that this could be a byproduct of remote supervision, as it limited officers’ ability to intervene when people on supervision were struggling. The increase in individuals on probation having new offenses was also reflected in the survey results, where officers indicated one of the leading causes of revocation was an individual being charged with a new offense. Survey respondents also noted a major driver of revocation was an increase in the number of individuals absconding. AB 236 defined what conduct constituted a technical violation and explicitly did not include absconding. Data from Specialty Courts support this trend, showing that the percentage of program failures resulting from absconding jumped from 16 percent prior to the pandemic to 23 percent during it.

***Minimizing barriers to successful reentry***

Lastly, AB 236 also made notable changes to the reentry process. This included requiring NPP to develop reentry plans in coordination with NDOC six months prior to release and the requirement to provide individuals with certain documents and identification prior to their release from custody. Interviews indicate that short staffing as well as staff having barriers to accessing individuals in custody has significantly impacted the implementation of these changes. Staff noted the challenges of working with individuals in custody while facilities were regularly on lockdown and cell blocks were under quarantine. They discussed how a lack of in-person programming further exacerbated this process by making individuals in custody unable to complete necessary components of their reentry plans. NDOC and NPP have both recognized these new barriers as a result of the pandemic and have pledged to collaborate and develop workable solutions.

## RECOMMENDATIONS

Below are 12 policy recommendations, based on the findings of this report, which are designed to:

- Continue and strengthen the positive policies and practices adopted in Nevada during the pandemic, to both improve the delivery of justice and safely prevent unneeded increases in corrections populations when the state returns to more normal operations;
- Reduce the density of the prison and jail environment in order to better mitigate the spread of airborne viruses and better protect the health of both staff and the incarcerated population, both in the present time and in the event of future health crises; and
- Optimize cooperation, coordination, and transparency among the various components of the public safety, public health, and justice systems, both in the present time and in the event of future health crises.

Recommendations designed to elevate and strengthen the innovative responses Nevada implemented to address the unprecedented challenges of COVID-19

***Recommendation 1: Continue and expand policies implemented to expedite case processing and provide fair remote access to the judicial system.***

As a result of the pandemic, many courts were forced to shut down for a period of time and make a significant transition toward remote proceedings. Consequently, the age of felony cases and the number of pending cases increased in both Justice Courts and District Courts. Courts across the state have implemented new processes to address the growing backlog of cases and ensure remote access to the judicial system for all who need it. Courts should:

- A. Continue expedited trial sessions – especially in busy District Courts – to work through the existing backlog of serious felony cases.
- B. Adopt the use of scheduled settlement conferences implemented in the Eighth and Second Judicial Districts in other jurisdictions.
- C. Establish written best practices for remote hearings in state statute or court rule. Such rules should include:
  - i. A right to an in-person hearing for any fact-finding proceeding, or any hearing at which a defendant might be sentenced to a term of incarceration.
  - ii. A right to meaningful pre- and inter-hearing communication between a defendant and their attorney.
- D. For rural courts, use local coordinating councils to establish a central location to allow people to more easily appear remotely – for example, a library or other government building.

***Recommendation 2: Prioritize criminal justice system resources for people who commit serious crimes by continuing to reduce custodial arrests, admissions, and filings for lower-level conduct, and considering diversion for those with behavioral health needs.***

During the pandemic, arrests and case filings dropped without increased risk to public safety. Stakeholders widely reported that this occurred due to focusing resources on justice system intervention for individuals who were a danger to themselves or others. This mirrors actions taken in other states. Police departments across the county formalized policies to limit in-person responses, as well as enforcement and arrest actions,<sup>87</sup> and District Attorneys created formal policies to stop prosecuting low-level offenses that did not jeopardize public safety.<sup>88</sup> Other jurisdictions recommended release for people detained while awaiting trial for nonviolent crimes and expanded the use of pre-filing diversion.<sup>89</sup> Nevada should continue these practices to not only reduce the population density in prisons and jails during the pandemic, but also to conserve resources for prevention and recidivism reduction services in the community. This may include:

- A. Law enforcement agencies developing formal policies to reduce arrests for lower-level, nonviolent offenses, particularly misdemeanors. This would include continuing to triage

<sup>87</sup> Police Executive Research Forum (n.d.). [Responding to COVID-19](#).

<sup>88</sup> Brennan Center for Justice. (2021, November 18). [Prosecutors responses to Covid-19](#).

<sup>89</sup> The Los Angeles County District Attorney’s Office. (2020, March 20). [District attorney Jackie Lacey directs deputy district attorneys to help reduce jail population during pandemic \[Press release\]](#)



- responses to calls on the basis of public safety and referring calls that could be best serviced by a non-law enforcement agency.
- B. In state statute or local court rule, create more flexibility at the stage where bench warrants are issued for nonappearance. For example, for defendants who may not pose a public safety risk, implement a 48-hour grace period before issuing an arrest warrant.
  - C. Expand the list of offenses required or presumed to receive citations.
  - D. Provide additional state and local funding and resources to programs such as CIT, MOST, and FASTT that divert individuals with behavioral health needs from the justice system. This would include creating more crisis centers or similar facilities that can provide treatment, referrals, and other services to stabilize individuals who may be involved in criminal activity driven by behavioral health needs.

***Recommendation 3: Continue to develop alternative NDOC programming methods to supplement in-person programming from outside providers to provide flexibility and maintain quality of life in the event of future public health crises.***

As part of NDOC’s firewall strategy to prevent the virus from coming into its facilities, it effectively ceased all in-person programming from outside providers. Many states took similar steps to protect the health and safety of incarcerated individuals and staff. To fill some programming gaps, NDOC developed educational packets distributed these to individuals in custody. NDOC leaders should continue to think innovatively about providing services and strengthen these new initiatives. This may include:

- A. Training NDOC staff or incarcerated individuals to deliver programming services normally provided by outside organizations.
- B. Establishing capacity for outside groups to engage in programming via remote calls on tablets. For example, Southern Maine Reentry Center partnered with MIT’s virtual remote learning program to provide classes through zoom instruction.<sup>90</sup>
- C. Continue to provide credits for those individuals who are engaging in remote programming opportunities, or increase time credits to offset any lack of programming in prisons and jails. Other states mobilized “public health emergency credits” and “compliance credits” to address these gaps, similar to the way good time credits can reduce sentence lengths.<sup>91</sup>

***Recommendation 4: Continue shifting toward a more remote supervision model by the Division of Parole and Probation, reserving punitive interventions for individuals who pose a risk to public safety, and employing graduated sanctions and supportive services for lesser conduct, including drug relapse.***

The pandemic necessitated some fundamental changes in NPP supervision practices, many of which gave supervising officers more discretion to work with the specific needs and challenges of their supervisees. Individuals on supervision noted the benefits of this increased flexibility, removing barriers to check-ins such as jobs, transportation, and childcare. Significantly, in step with many of these changed practices, the number of revocations with no new convictions declined during the pandemic. NPP should consider continuing some of these policies that benefitted both their supervisees and public safety. This may include:

<sup>90</sup> Smith, M. (2022, January 18). [When prison education went virtual, an MIT program reached new incarcerated students](#). GBH.

<sup>91</sup> New Jersey Senate Bill S.2519 (2020); and see Van Ness, L. (2021, January 20). [COVID-19 extends sentences for some incarcerated people](#). The Pew Charitable Trusts.

- A. Supporting its existing remote supervision model, including online and phone check-ins.
- B. Reserving more onerous conditions, like frequent drug testing, for individuals with a demonstrated need for such conditions and expanding eligibility for lower supervision levels to individuals needing less contact requirements. As an example, at the start of COVID-19, Colorado expanded eligibility for low risk/low custody (LRLC) supervision to individuals assessed as medium risk but who demonstrated compliance with supervision for a period of time. LRLC individuals had reduced contact standards and supervision requirements and were more successful on supervision, with lower recidivism rates, than individuals of similar risk but on traditional parole.<sup>92</sup>
- C. Reserving revocation and other punitive interventions for serious misconduct that poses a risk to public safety.
- D. Continue responding to lesser setbacks, including drug relapse, using graduated sanctions or supportive services.

***Recommendation 5: Ensure that behavioral health treatment providers continue to provide remote care when possible, and prioritize in-person care for the most vulnerable.***

Data indicate an increase in the incidence of behavioral health issues since the pandemic began, both in the community and in custodial settings. Interviews with stakeholders across the state cite access to remote telehealth services as a critical tool to combat this problem. Nevada should continue to provide behavioral health services remotely and support these initiatives by:

- A. Investing in an expansion of broadband capacity in rural areas to ensure service accessibility. For example, Minnesota established the Minnesota Office of Broadband Services to achieve its goals of expanding broadband access to remote regions of that state.
- B. Ensuring Medicaid covers virtual services in the same capacity as in-person services for individuals in the community. States passed legislation and governors issued executive orders to explicitly state such services would be covered by federal funding under the Medical Assistance Act and Social Security. For example, Nebraska did this through its Telehealth Act of 2021.

Recommendations designed to reduce the density of the prison and jail environment in order to better mitigate the spread of the virus and protect the health of staff and the incarcerated population, both in the present time and in the event of future health crises.

***Recommendation 6: Expand statutory release mechanisms for use both generally and in the event of future health crises.***

Data from both NDOC and CCDC show that releases from prison and jail decreased during the pandemic and continued to decrease at the NDOC during 2021. For jails, there was an average monthly reduction of 21 percent during COVID-19, and prisons had an average monthly drop of 15 percent. Under existing statute, NDOC has some authority to release individuals. Nevada should pursue policies that would

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<sup>92</sup> Crime and Justice Institute. (2021). [Colorado's justice system policy changes during COVID show positive public safety outcomes.](#)



safely reduce the prison and jail populations to create space for effective mitigation strategies, both now and in the event of future health crises. These include:

- A. Expanding eligibility for release in the statutes<sup>93</sup> related to residential confinement, temporary furlough, geriatric release, and medical release.
  - i. Expanding residential confinement release to include individuals convicted of Category B offenses and individuals with more than one prior conviction.
  - ii. Expanding geriatric release to include individuals over the age of 60 instead of 65 and those convicted of a Category C felony or lower.
  - iii. Expanding medical release to include clear diagnosis instead of a specific time period prior to death.
  - iv. Adding a public health emergency to the definition of “any activity” needing approval from the Director and the Board for temporary furlough release.
- B. Create a release mechanism related to public health emergencies for individuals nearing the end of their sentence. For example, New Jersey prisoners with a year or less on their sentences could be released early during the declared public health emergency. The law allowed incarcerated individuals to accrue credits due to COVID-19 and reduce their sentence by up to eight months. This allowed the state prison population to decrease by 40 percent. The releases were allowed only during the state of emergency as declared by the Governor. Initial data analysis found that of the first 2,500 people released in 2020, 9 percent were re-incarcerated within a year, a lower rate than what was found pre-pandemic.<sup>94</sup>

***Recommendation 7: Use statewide administrative orders to reduce prison and jail density when public health crises unduly jeopardize the health and safety of corrections staff and incarcerated individuals.***

As part of their COVID-19 mitigation plans, many state and local leaders enacted executive authority to release individuals from prisons and jails. States such as New Jersey, Maryland, and Michigan issued executive orders to release currently incarcerated individuals who were convicted of certain types of offenses.<sup>95</sup> Others placed parameters on what conduct should constitute a return to custody, such as South Dakota, where an executive order was issued barring individuals from returning to prison for positive drug tests.<sup>96</sup> As noted above, this was not part of Nevada’s COVID-19 response plan.

- A. In the event of future public health emergencies, the state should pursue executive orders to effect a targeted release of people convicted of lower-level offenses, including any of the following: (1) nonviolent or non-sex offenses, (2) Category C felonies or lower, (3) those who are over the age of 65 or particularly medically vulnerable, (4) those within six months of their parole date, or (5) those incarcerated on a technical violation.

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<sup>93</sup> One example of the broadening of release mechanisms in response to COVID-19 occurred in Minnesota, where that state expanded two existing programs to accommodate early releases: conditional medical release (CMR) & work release (WR). 344 inmates were released pursuant to the changes, and their recidivism during the subsequent 18 months was tracked by the Minnesota Department of Corrections, which concluded that the early releases did not compromise public safety. See Minnesota Department of Corrections Policy 205.122, “COVID-19 Expanded Work Release Program.”

<sup>94</sup> Yi, K. (2022, January 14). [NJ will resume releasing prisoners early due to COVID after Murphy declares emergency.](#) *gothamist*.

<sup>95</sup> Brennan Center for Justice. (2022, January 7). [Reducing jail and prison populations during the COVID-19 pandemic.](#)

<sup>96</sup> Office of Governor Kristi Noem, [Executive Order 2020-14](#) (April 7, 2020).

***Recommendation 8: Fortify the Parole Board’s ability to safely release incarcerated people, both generally and in the event of future public health crises.***

Due to several factors, including but not limited to restrictions on in-person hearings, a declining prison population, and smaller parole eligibility lists due to NDOC housing individuals with more serious offenses, releases via parole declined during the pandemic. Parole Board data show that the Board granted discretionary parole to 35 fewer individuals per month than before COVID-19 (January 2019-February 2020). Concerning mandatory parole, data show the average number of individuals granted mandatory parole each month decreased by over 15 individuals during the pandemic and by an additional 10 fewer people per month since the start of 2021. Parole is the primary mechanism for individuals to be released from prison prior to their sentence expiring, and should be utilized to effect safe releases in the event of a future public health crisis. Nevada should explore:

- A. Requiring that the Board evaluate the safety and wellbeing of the individual if they were to remain incarcerated as a factor for parole consideration.
- B. Creating a new statutory parole option for “emergency release,” with separate criteria focusing on someone’s health and safety while incarcerated as well as the public safety risks of release.
- C. Removing an absence of programming from adverse parole considerations when the absence was entirely caused by a public health emergency or other circumstance outside the control of the incarcerated person.
- D. Expand eligibility for in-absentia parole hearings during a public health crisis to ensure more individuals who are not a threat to public safety can be released in circumstances where in-person hearings are not feasible.
- E. Expand eligibility for early discharge from parole to those who may not pose an imminent threat to public safety. For instance, Colorado expanded the eligibility for early discharge to those age 60 or older, or to individuals assessed as low- or medium-risk who were convicted of certain classes of offenses and completed at least one year of parole. Analysis of one-year recidivism trends showed lower recidivism for medium-risk individuals who received early discharge compared to those who were mandatorily discharged.<sup>97</sup>

Recommendations designed to optimize cooperation, coordination, and transparency among the various components of the public safety, public health, and justice systems in the present time and in the event of future health crises.

***Recommendation 9: Ensure NDOC’s policies and practices during a crisis function to uphold its mission of protecting the safety and wellbeing of people in custody.***

NDOC has the incredibly challenging task of preventing the spread of COVID-19 in an environment that was incompatible with mitigation strategies. Similar to other correctional institutions across the country, it responded to this unprecedented crisis by establishing a firewall to the outside. This meant limiting individuals entering the facilities from outside as well as restricted movement within the facilities. However, despite these responses, Nevada’s prison system had the third-highest death rate among prison systems nationwide. Moreover, the impact of these policies, which restricted communication

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<sup>97</sup> Crime and Justice Institute. (2021). [Colorado’s justice system policy changes during COVID show positive public safety outcomes.](#)

between incarcerated individuals and their loved ones and prevented them engaging in in-person programming, has and will continue to have significant consequences on the health and wellbeing of individuals in custody. This is particularly important due to the heightened prevalence of individuals in custody with a behavioral health need requiring additional support and services. In an effort to mitigate these adverse effects, NDOC should consider:

- A. Embedding public health professionals in NDOC facilities in order to leverage the expertise of individuals who understand not only the most effective public health and infection prevention protocols, but also the unique challenges of implementing such protocols in prisons.
- B. Increasing alternatives to family visits, such as remote visits through video conference and/or increased phone time. Moreover, rather than halting family visitation entirely, the Department should consider investing in safety measures such as rapid tests, temperature screenings, and cleaning and disinfecting protocols both prior to and following each family visit.
- C. Waiving fees for all phone and video communication if family visitation is halted. For example, the jail in Shelby County, Tennessee, waived all fees for phone calls and established video chats for individuals in their custody.<sup>98</sup>
- D. Supplying individuals in custody with envelopes, paper, and stamps to communicate with friends and family through the mail.
- E. Developing a system to ensure thorough and regular assessment of individuals' behavioral health needs alongside physical health and other crisis-related and triage treatment.
- F. Establishing peer programs to support individuals in custody through the pandemic. For example, Illinois attempted to combat vaccine hesitancy by using "peer ambassadors" to promote the vaccine among incarcerated individuals. This demonstrated how and why messages from incarcerated people to one another might be received better than promotion from the Illinois Department of Corrections. Also in Illinois, the approach of sending out direct memos to the incarcerated population and then releasing the memos to the public created a sense of transparency.<sup>99</sup>

***Recommendation 10: Create an oversight body for the entire criminal justice system that is representative of all system actors including agency personnel, justice-involved persons, victims, advocates, and state leaders.***

Under state statute, the Board of Prison Commissioners is authorized to oversee the Department of Corrections. This Board consists of the governor as chairperson, the secretary of state, and the attorney general. In other states and cities, prison oversight boards are typically independent to the executive branch and are comprised of stakeholders from the criminal justice system. This includes states such as Washington, Pennsylvania, and Michigan, and cities such as New York. These oversight boards also have clearly defined duties in statute such as investigating complaints, monitoring compliance, and producing public reports. To prepare for future crises, state leaders should consider making changes to the existing Board of Prison Commissioners or create a new independent oversight body for the entire criminal justice system as a whole. That body should:

<sup>98</sup> [Shelby County cancels non-essential government meetings, jail visitations.](#) (2020, March 12). *Action News 5*.

<sup>99</sup> Correctional Association of New York, John Howard Association, & Pennsylvania Prison Society (2021). [Three state prison oversight during the COVID-19 pandemic: The case for increased transparency, accountability and monitoring based on experiences from Illinois, New York and Pennsylvania.](#) John Howard Association.

- A. Consist of directly impacted individuals, victims, agency personnel, advocates, and state leaders.
- B. Have clearly outlined authority to investigate complaints, inspect facilities, monitor compliance, and provide information to incarcerated individuals and their families.
- C. Have enforcement mechanisms to respond to noncompliance.
- D. Hold a public meeting monthly.
- E. Issue regular reports to the public on its findings and recommendations.

***Recommendation 11: Increase NDOC transparency about its crisis response policies and practices to build trust with the public and those in custody.***

There has historically been a call for more transparency from correctional institutions across the country. A desire for information about prisons and jails has prompted cities and states to create oversight boards, as mentioned above, as well as review agencies and regular reporting requirements. While Nevada does have many reporting requirements for NDOC, none of them require sharing of information relating to their response to the pandemic. The need for information was further exacerbated by the limited access outsiders had to the prisons, particularly family members of individuals in custody. Interviewees shared high levels of anxiety and concern over the wellbeing of people in custody with no mechanism for them to learn about their incarcerated friends and family. The need for information was also expressed by individuals in custody who had little information about the public health emergency that was occurring across the world or the specific changes occurring within the facilities. Nevada should consider ways to increase information sharing between the prison system and the public to continue to build trust and to address a heightened need for information both among the public and those in custody during public health crises. Steps to consider include:

- A. Requiring NDOC to regularly publish pertinent data and information on its website relating to the current pandemic and in the event of future public health crises, such as positivity rates, average daily population, and response plans, among other data points.
- B. Create weekly or monthly newsletters to incarcerated individuals updating them on the status of the pandemic and pertinent public health information.
- C. Require NDOC to post changed policies and procedures in response to the pandemic within NDOC housing units, as well as an explanation of why such practices are being changed.

***Recommendation 12: Focus reentry efforts on transitional housing to support individuals exiting prison and jails during a pandemic.***

Significant barriers to reentry in Nevada long predated the pandemic, but COVID-19 exacerbated pre-existing challenges of reentry support for a person leaving prison or jail. Providers closed down, limited jobs were available, and there was essentially nowhere to go without having a period of quarantine first. Stakeholders repeatedly raised a lack of housing as the primary obstacle to successful reentry during the pandemic. Research indicates that without access to stable and affordable housing, individuals who have recently been released from incarceration have a higher likelihood of returning to prison or jail.<sup>100</sup> Beyond the stability that housing provides to employment, mental health, and familial relationships—all factors in reducing the risk of recidivism—having a place to live that is not communal or public allows individuals to stay better protected from the COVID-19 pandemic. In addition, some stakeholders shared concern that individuals might stay incarcerated longer than necessary due to a lack of residential

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<sup>100</sup> National Housing Law Project. (2010). The importance of stable housing for formerly incarcerated individuals. *Housing Law Bulletin* 40, 2, 60–62.

program or housing options. Some states, such as California and Florida, made efforts to lease hotel rooms, buy trailers, or incentivize property owners in order to ensure that individuals experiencing homelessness, particularly those released from jails and prisons, had housing during the pandemic.<sup>101 102</sup>

<sup>103</sup> Nevada should consider:

- A. Increasing the volume of residential reentry services throughout the state through the Emergency Solutions Grant Program, Nevada 211, or other means.
- B. Promoting policies and practices aimed at reducing barriers to housing for those with criminal justice involvement, such as providing incentives for property owners to rent to individuals with criminal histories or prioritizing rental assistance to those with behavioral health needs.
- C. Reestablishing the presence of NPP staff working within NDOC facilities to optimize reentry plans.
- D. Ensuring that individuals who have been approved for release by the Parole Board do not remain in prison because of a lack of housing plans. For example, Georgia has a Reentry Partnership Housing program that pays for short-term housing and food for individuals releasing onto parole.<sup>104</sup>
- E. Funding more NPP positions embedded in state prisons to facilitate working closely with NDOC staff and streamlining the reentry planning process. This would reduce delays between parole approval and parole release and reduce barriers to releasing individuals from custody.

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<sup>101</sup> Vansickle, A. (2020, April 6). [A new tactic to fight coronavirus: Send the homeless from jails to hotels](#). *The Marshall Project*.

<sup>102</sup> [Reentry Alliance to provide local landlords cash incentives for permanent housing](#). (2021, July 9). *NorthEscambia.com*.

<sup>103</sup> [\\$30 million public-private partnership launched to support returning citizens, as California urgently reduces prison populations to curb impact of COVID-19](#). (2020, Aug 27). *Chan Zuckerberg Initiative*.

<sup>104</sup> [Reentry partnership housing](#). (n.d.). DCS Reentry Housing.

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