
Committee Meeting

of

ASSEMBLY JUDICIARY COMMITTEE

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

“The Committees will hear testimony from invited guests related to the spread of COVID-19 in New Jersey’s State and County correctional facilities, and other urgent matters”

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: June 10, 2020
10:30 a.m.

MEMBERS OF COMMITTEES PRESENT:

Assemblyman Raj Mukherji, Chair
Assemblywoman Carol A. Murphy, Vice Chair
Assemblyman Nicholas A. Chiaravalloti
Assemblyman Gordon M. Johnson
Assemblyman Robert Auth
Assemblyman Christopher P. DePhillips

Assemblyman Adam J. Taliaferro, Chair
Assemblywoman Annette Chaparro, Vice Chair
Assemblywoman Linda S. Carter
Assemblywoman Nancy J. Pinkin
Assemblywoman Shavonda E. Sumter
Assemblywoman Lisa Swain
Assemblywoman Serena DiMaso
Assemblywoman Jean Stanfield



ALSO PRESENT:

Miriam Bavati
Gabriella B. Ferri
Office of Legislative Services
Committee Aides

Mark Iaconelli
Shannon Natale
Assembly Majority
Committee Aides

Brandon Pugh
Assembly Republican
Committee Aide

Hearing Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

Raj Mukherji
Chair

Carol A. Murphy
Vice Chair

Nicholas A. Chiaravalloti
Gordon M. Johnson
Robert Auth
Christopher P. DePhillips



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NEW JERSEY STATE LEGISLATURE

ASSEMBLY JUDICIARY COMMITTEE

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COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY JUDICIARY COMMITTEE
FROM: ASSEMBLYMAN RAJ MUKHERJI, CHAIRMAN
SUBJECT: COMMITTEE MEETING - JUNE 10, 2020

The public may address comments and questions to Miriam Bavati, Sarita J. Welsh, Committee Aides, or make bill status and scheduling inquiries to Denise Darmody, Secretary, at (609)847-3865, fax (609)292-6510, or e-mail: OLSAideAJU@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Assembly Judiciary Committee will meet on Wednesday, June 10, 2020 at 10:30 AM in Committee Room 11, 4th Floor, State House Annex, Trenton, New Jersey.

Due to the public health emergency, the State House Annex remains closed to visitors and the public will not be allowed to attend the meeting in person. The Committee will take oral testimony from invited guests, by telephone and/or video.

The Assembly Judiciary Committee will meet jointly with the Assembly Law and Public Safety Committee. The committees will hear testimony from invited guests related to the spread of COVID-19 in New Jersey's State and county correctional facilities and other urgent matters.

Issued 6/01/2020

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Adam J. Taliaferro
Chair

Annette Chaparro
Vice Chair

Nancy J. Pinkin
Linda S. Carter
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NEW JERSEY STATE LEGISLATURE

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

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COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

FROM: ASSEMBLYMAN ADAM J. TALIAFERRO, CHAIRMAN

SUBJECT: COMMITTEE MEETING - JUNE 10, 2020

The public may address comments and questions to Thomas M. Kelly, Gabriella B. Ferri, Committee Aides, or make bill status and scheduling inquiries to Marybeth Webster, Secretary, at (609)847-3870, fax (609)777-2715, or e-mail: OLSAideALP@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Assembly Law and Public Safety Committee will meet on Wednesday, June 10, 2020 at 10:30 AM in Committee Room 11, 4th Floor, State House Annex, Trenton, NJ.

Due to the public health emergency, the State House Annex remains closed to visitors and the public will not be allowed to attend the meeting in person. The committee will take oral testimony from invited guests by telephone and/or video.

The Assembly Law and Public Safety Committee will meet jointly with the Assembly Judiciary Committee. The committees will hear testimony from invited guests related to the spread of COVID-19 in New Jersey's State and county correctional facilities and other urgent matters.

Issued 6/1/20

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ASSEMBLYMAN RAJ MUKHERJI (Chair): We welcome everyone to the Joint Committee meeting of the Assembly Judiciary Committee and the Law and Public Safety Committee.

And my appreciation to my Co-Chairman of this joint Committee meeting, who is Adam Taliaferro; and we'll hear from the Assemblyman and Chairman in a moment.

Why don't we begin with the Pledge of Allegiance?

If you would rise, if you're able and so choose. (all recite Pledge of Allegiance)

For participants, please be mindful of the mute function as we deal with virtual policymaking and lawmaking in the pandemic era. And thanks to OLS for their assistance, which I think we're going to need. This is the first virtual meeting of this Committee in the wake of the pandemic.

So if Committee staff will read the Open Public Meetings Act notice and call the roll.

MS. BAVATI (Committee Aide): If we could call the roll:
Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: Here.

MS. BAVATI: Assemblyman Auth.

ASSEMBLYMAN AUTH: Present.

MS. BAVATI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Here.

MS. BAVATI: Assemblyman Chiaravalloti.

ASSEMBLYMAN CHIARAVALLOTI: Present.

MS. BAVATI: Assemblywoman Murphy.

ASSEMBLYWOMAN CAROL A. MURPHY (Vice Chair):

Present.

MS. BAVATI: Chairman Mukherji.

ASSEMBLYMAN MUKHERJI: Present.

MS. BAVATI: Thank you.

MS. FERRI (Committee Aide): Assemblywoman Stanfield.

ASSEMBLYWOMAN STANFIELD: Present.

MS. FERRI: Assemblyman Peterson I don't think has logged in yet.

Assemblywoman DiMaso.

ASSEMBLYWOMAN DiMASO: Present.

MS. FERRI: Assemblywoman Swain.

ASSEMBLYWOMAN SWAIN: Here.

MS. FERRI: Assemblywoman Sumter.

ASSEMBLYWOMAN SUMTER: Here.

MS. FERRI: Assemblywoman Pinkin.

ASSEMBLYWOMAN PINKIN: Present.

MS. FERRI: Assemblywoman Carter.

ASSEMBLYWOMAN CARTER: Here.

MS. FERRI: Vice Chair Chaparro.

ASSEMBLYWOMAN ANNETTE CHAPARRO (Vice Chair):

Here.

MS. FERRI: Chairman Taliaferro.

ASSEMBLYMAN ADAM J. TALIAFERRO (Chair): Here.

MS. FERRI: You have a quorum.

ASSEMBLYMAN MUKHERJI: Thank you.

Okay; I'll begin with brief opening remarks, and I'd ask a Assemblyman Taliaferro to do the same, if that's okay.

Let me start by saying that, in my view -- and I don't speak for the Committee here -- Governor Murphy has been extraordinary in steering our state through this unprecedented public health crisis, which has also become an economic crisis. I could not be prouder of our state, considering how hard hit we were, in terms of his leadership through the challenges we faced in the wake of the novel coronavirus and our recovery there from.

And it's been a privilege to work with Commissioner Persichilli, Commissioner Johnson, General Grewal, and watch these tireless public servants in action, leading the charge in terms of our response. And by the same token, we've been hard hit, and we've lost people. And we're all going through something really, really rough. No matter how resilient we are as a people in New Jersey, no matter how tough we are, this is-- I mean, it's just unprecedented, and it's hard.

And no response to a crisis at the level of a pandemic with these complexities is going to be perfect. And some aspects, graded on a curve, may not even be great or good. And the things we've read and heard about the impact of COVID-19 on our State's correctional system, and what's gone on, are *disconcerting*, to put it mildly.

Now, the Corrections Commissioner, Commissioner Hicks -- who I spoke with prior to the hearing -- is a professional, he is eminently qualified. We had a candid conversation, which I appreciate, subject to certain limitations because of the Supreme Court's decision last week, and settlement discussions related to the implementation of the order, and

external inquiries and investigations he's facing and that are pending in that Department.

So the Commissioner has provided written testimony, but he's not able to be here with us today. Which I think is a shame, because not having the opportunity -- not to use the word *cross-examine* -- but not having the opportunity to ask fair questions, both for the Committees that convene here today and others, I think that would -- the public would benefit from that, and we're not going to be able to have that dialogue.

But I also -- I don't envy him, especially right now. It's easy to armchair quarterback, or second-guess difficult calls he's had to make on the battlefield. That's not my intention today. But nevertheless, we have a high infection rate and death toll higher than others. And although we knew our correctional infrastructure was at high risk, with overcrowded facilities, and social distancing measures and some of the other steps we can take in the outside world that are impractical within the prisons-- And we've seen reports that inmates were denied hand sanitizer, that we didn't restrict the alcohol restriction for hand sanitizer, that we denied face coverings; whether we were failing to properly test and isolate correctional officers, and staff, and inmates; whether guidance and executive orders were followed in the health and welfare of our public servants working at the Department of Corrections, as well as the inmates.

For those who believe it, as I do, that every human being, every person, is made in the image of God, every life is sacred, if these failures led to the preventable death of any uniformed hero in our correctional institutions, or any inmates, we must do better and we have to look into why that happened.

FDR said, in his acceptance of the re-nomination for the presidency -- it's one of my favorites -- and he was talking about presidents; but I think it applies to Governors, it applies to lawmakers, it applies to all of us who keep the public trust. "Governments can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warm-hearted in different scales. Better the occasional faults of a Government that lives in a spirit of charity than the consistent omissions of a Government frozen in the ice of its own indifference."

And I would suggest that our two Committees today will not be indifferent.

And I would turn it over to my Co-Chairperson, Assemblyman Taliaferro, for some remarks as well.

ASSEMBLYMAN TALIAFERRO: Chairman Mukherji, thank you, and thank you for your comments.

First and foremost, I want to thank the members of the Judiciary, and, also, the members of the Law and Public Safety Committee for their time and dedication to this effort.

You know, from my standpoint, I did just have a couple things. I was, in my mind, trying to think what would be most apropos to say during these times, and I just wrote down a couple things I just wanted to share before we get this thing started this morning.

As we know, people who are incarcerated are at a great risk of sickness and death as a result of the COVID-19 pandemic. We also know incarcerated individuals are more likely than the general population to have underlying illnesses, such as cancer, diabetes, and substance abuse disorder

that increase their risk of developing severe COVID-19. The inability to quarantine or practice social distancing, together with overcrowding, imperils the lives of many people incarcerated in jails and prisons. Nationwide, the known infection rate for COVID-19 in jails and prisons is about two-and-a-half times higher than in the general population. And in this moment, I truly believe we all must remember that incarcerated people, and all those who work in prisons and jails, are part of our families and communities. We have a constitutional and ethical obligation to protect these populations and to take all appropriate actions needed to mitigate the effects of outbreaks in our correctional facilities.

Before I close my remarks, there was an instance that happened here in the District that I represent, in Franklinville, New Jersey; an unfortunate event. A peaceful protest, people walking down the street, and one of our New Jersey State Correctional Officers decided to mock the death of George Floyd. A gentleman laid down, and he put his knee on his neck and said to the people who were protesting, “This is what happens when you don’t comply.” Hard to see, hard to watch.

But I bring that to your attention because I want to thank the State Department of Corrections and the NJPBA Local 105, the union representing State Correctional Officer, for decrying this horrible event; for taking swift actions for suspending this person. And I hope that it goes further than that.

So I know the jobs that our Correctional Officers do is not easy. But I would be remiss if I didn’t highlight that horrible event that just happened in our District on Monday.

The one thing I'll leave everybody with, is a Thoreau quote that I've often referred back to during these difficult times. And it reads, "Could a greater miracle take place than for us to look through each other's eyes for an instant?"

And I urge, as we listen to our panelists, take a moment; try to hear what they're saying. Put yourselves in their shoes. Because you're going to hear a lot of information today, a lot of great speakers. I want to thank our panelists, because they've got a lot going on in their lives, for taking the time to give us that information. Because certainly during these times you want to do as much listening as possible.

So I'll stop there, because one of the things that we will ask -- and I want to remain respectful of everybody's time -- is, as you heard the Chairman and myself, we try to keep our comments under five minutes, and we ask all of our panelists -- because we do have many great speakers here today -- that if you could, keep your comments within a five-minute time frame. That will allow all of our panelists to be heard, and allow also our members to ask questions to your testimony.

So I'll stop there. Again, I just want to thank everybody, and look forward to an informative conversation today.

Thank you, Chairman.

ASSEMBLYMAN MUKHERJI: And thank you, Chairman.

And then without further ado, I think we will turn to our invited guests.

And I believe we have the privilege of having Joe Krakora, our State's Public Defender, with us.

And Miriam and Mark, if I'm not mistaken, he's first on the list; is that right?

MR. IACONELLI (Committee Aide): That's right, Chairman.

ASSEMBLYMAN MUKHERJI: Okay.

J O S E P H E. K R A K O R A, Esq.: Good morning, everyone.

I'm Joe Krakora, the State Public Defender. I've worked for this agency for about 30 years, and I've had the privilege of serving in my current position for nine years; it will be nine years in two weeks -- my anniversary.

I'll abide by the Assemblyman's five-minute rule to the best I can. But I do think in addressing what I see as the crisis in the prison system, a little context would be healthy.

So back when the Governor declared the public health emergency and shut down, those of us in my office -- and many prison reform advocates across the country -- recognized the risk that was going to be posed to jails and prisons as a result of the spread of the virus, which was inevitable.

Early on, my office, in collaboration with the ACLU, filed an order to show cause in the New Jersey Supreme Court seeking the release of low-risk county jail inmates who were serving sentences of less than a year, and municipal defendants; in essence, suspending their sentence so as to reduce the crowding in the county jails and make it easier for the county jails to protect the inmates and, of course, the staff who are working day to day with those inmates.

That resulted in the Court ordering a mediation with my office, the ACLU, the County Prosecutors Association, and the Attorney General's Office. Andrew Brock was their primary participant. Over a weekend, we hashed out a consent order that set up a protocol, which the Court signed

back on, I think it was, March 22; which set up a mechanism by which the inmates who fell into those categories -- meaning sentenced County prisoners doing less than a year, which in practical terms means six months is about the most you would serve off of a year sentence in the county jail-- So these are folks who are going to be getting out in the relatively near future, and they've been convicted of relatively minor offenses; and Municipal Court defendants.

And the mechanism that was set up -- which we did in, literally, five days -- was, Prosecutors were given an opportunity to object to the release of people who were eligible under the Court's order; and judges around the state, on an expedited basis, ruled on those. And in the course of five days, 700 of the 800 eligible County jail inmates were released. That, combined with advocacy by my lawyers, often with consent of Prosecutors and obviously with the blessing of judges, 1,300 more County jail inmates -- these would be primarily people waiting for trial who were detained, who might have been a close call in terms of whether pre-trial detention was warranted, charged with the less serious offenses -- 2,000 County jail inmates were released in less than a month. That reduced the population from 8,900 to 6,900. And I can report that it has made a tremendous difference in the County jails' ability to protect the inmates and the staff.

I remember, early on, a Corrections Officer from the Hudson County Jail, I believe, died from the virus; but since then, as far as I know, there have been no deaths in the County jails, and the Corrections Officers and the inmates have a much lower rate of infection as a result of the jail's ability to do social distancing and maintain sanitary conditions.

So with that model, in April, when it became clear that the virus was spreading in our prisons, we filed a similar order to show cause in the court; again, jointly with the ACLU. That was on April 8. On April 10, the Governor signed the Executive Order. That sort of took the steam out of our application, because there was a certain overlap; in fact, there was a considerable overlap between the relief that we were seeking and the Governor's Order, which declared four categories of inmates eligible for release. That was a combination of parole, or simply releasing them on a medical furlough to complete their sentences after the public health emergency. And the Governor laid out, in all those *whereas* clauses that you see in these executive orders, the reasons for his concern.

We made several overtures to get involved in that. In fact, I had written to Sam Plumeri, the Parole Board head, at the end of March, proposing some categories that he might take a look at -- meaning, people who were denied parole within the last year: people who were elderly, and sick, and vulnerable to the virus, who are parole-eligible as we sit here today; people who had been paroled but not released yet. There were straightforward categories, which I articulated after some discussions with parole experts.

So April 10, the Governor signs the order; the order focuses on four groups: people who are over 60 people who have underlying medical conditions identified by the CDC, people who were denied parole within the last year, and people who are eligible for parole in the next three months -- so they're about to be considered and released very shortly.

Well, to say-- And this is where, in my view, this went awry. And it was the implementation and execution by the DOC and the Parole

Board which ultimately led the Supreme Court to conclude, last week, that the implementation and execution of the Executive Order denied basic due process to all the inmates who were on those four lists. There are 3,000 people on the lists who are eligible under the Governor's Order. Now, keep in mind, in the County jail context, 700 of the 800 who were eligible were, in fact, released. But this Order put so many restrictions on who could be released-- It gave complete authority to the Commissioner to decide each one of the eligible inmates' fate. It took weeks, and weeks, and weeks; very few people were released. We had a very hard time getting any information from both the Parole Board and the DOC. And in the meantime, we established a hotline within the Public Defender's Office because we were being overrun by calls from scared family members who had inmates who were sick, or old, or both; to the point where we have now heard from 750 at last take. We have a spreadsheet of inmates who we're trying to at least communicate with the families as to whether there's anything that can be done to secure their release during the pandemic.

So we fought -- we went back to the Court on May 10, roughly; and the Supreme Court signed an order to show cause on May 11, which set a very quick briefing schedule. We argued the case in the Supreme Court last week; the Court ruled on -- June 5 the ruling came down. And, in essence, the Court held that the execution of the EO had violated due process. And now there's a requirement that the inmates get an opportunity to be heard in front of the Department of Corrections before a decision is made. They're entitled to a statement of reasons as to why they were denied even though the Governor said they were eligible for release. And they now have a right

to appeal to the Appellate Division, because the Court has said that the Commissioner's decision is the final decision of an administrative agency.

So the numbers -- I'll just, hopefully, not go too past my five minutes -- there were 3,000 inmates, roughly, eligible for release. As of the day before yesterday, the attorney for the Department of Corrections represented, on a phone conference with Joe Orlando from the Appellate Division, that he had denied 2,156 inmates parole, all of whom were eligible according to the Governor's Executive Order. And at the argument in the Supreme Court, she represented that parole has denied over-- Actually, that was the parole number; 2,156 were represented by the Attorney General's Office at the Supreme Court argument. And two days ago, the same attorney said that Commissioner Hicks has denied over 2,000 inmates.

When the Court asked for an update on the number of people actually released, the representation was that there were only 300 -- this is at the time of the Supreme Court argument a week-and-a-half ago -- roughly 377 of the 3,000 inmates eligible for release under the Governor's Order had been released. And another 250 had been told they would be released, and they were still in custody, sometimes for as much as two to three weeks after the decision was made that they should be released.

So you're talking 377 out of 3,000. It may be -- I'm sure it's somewhat more now, because the process is ongoing. But to me, it speaks to the failure of the Parole Board and the Department of Corrections to take into account the fundamental underlying concept of this Executive Order. The Governor is saying to the two boards -- the DOC and the Board -- there is a risk to these high-risk inmates; they are at risk. Corrections Officers are at risk, their families are at risk because they go into the community. You

need to reassess certain decision-making, taking into account not just the risk to public safety that this inmate poses-- Because all inmates pose at least some risk to public safety. It may be very low, it may be very high. I'm the first to acknowledge that. But you now have to weigh this other risk: the risk to public safety; the risk not only to the infected people in the jail, and the elderly, and the infirm, but all the other inmates who can't properly social distance, and can't possibly get sanitation, and can't possibly even go out in the community if they're in a halfway house.

So that is, in my mind, where we've gone off the tracks. The Governor gave a blueprint for a system that could have worked. I contend that if he hadn't done that and the Court had ordered us to sit down and do mediation with the Attorney General's Office and the County Prosecutor's Office, like we did with the County jails, we probably would have gotten thousands of inmates out of jail to complete their sentences when the public health emergency is over.

I just want to add one more point, and then I'm happy to take any questions.

I've been an integral member of the Sentencing Commission that, as many of you know, issued a report back in November; the Governor held a press conference. It was unanimous recommendations for certain changes in our sentencing law, supported by the Attorney General, supported by the County Prosecutor's Office, unanimous membership of the Commission. And I just want to focus on one. One of those recommendations is that New Jersey eliminate the mandatory minimum sentence for drug offenses, which is one of the key components of the racial disparity in our prisons. I mean, we have the highest racial disparity in -- 63

percent of the people in our state prisons are Black. Add in the Hispanic group, and it goes up even higher. And we have the highest death rate in the prisons during the pandemic; and over -- about close to 70 percent of the people who've died in State prisons -- I think it was 47 or 48 when I looked yesterday -- are Black or Hispanic.

So if the Legislature acts, and the Governor signs an elimination of the mandatory minimum sentences for drug offenses -- nonviolent offenses, and there are some other property crimes -- as of November, there were 3,600 inmates, Black inmates, in the prison system serving mandatory minimum sentences for drug offenses. If that law were passed -- on the day it was passed, 2,500 of them would become eligible for parole. And to put the contrast in place, there are only 448 white people in the prisons serving sentences -- mandatory minimum sentences for drug offenses. Seventy-seven percent of the people in our State prisons, who are serving sentences for being convicted of selling, or possessing with intent, or distributing even small amounts of drugs within a thousand feet of a school -- 77 percent of them are Black.

So there's a concrete step that, had it been taken, the prison population would have been reduced by thousands before the pandemic hit. Now, I'm not suggesting that anyone had the idea that something like this would happen; of course not. But the point is, there are concrete steps that we can take, as a State, to address not only the immediate crisis in our prisons, but the broader picture of addressing why a state that has so many progressive aspects to it -- including the best pretrial release and fairest pretrial release system in the country -- can't get it right when it comes to the racial disparity and mass incarceration that we endure as a state.

I'm sure I went past five minutes, so I apologize. But I'm happy to take any questions that the members have.

ASSEMBLYMAN MUKHERJI: Any member have questions for the Public Defender?

And thank you, thank you for your comments, sir.

MR. KRAKORA: It's my pleasure; thank you for inviting me. I very much appreciate it.

ASSEMBLYMAN CHIARAVALLOTI: Chairman, I don't have a question; I just appreciate the Public Defender's comments. And I think it goes to the underlying criminal justice reforms that have widespread support in the State Legislature.

I did just want to correct him on one statement, and I know it was not intentional on his part. But Hudson County lost two Corrections Officers to COVID-19.

MR. KRAKORA: I stand corrected.

ASSEMBLYMAN CHIARAVALLOTI: Correction Officer Waddell, as well as Correction Officer Craig.

So thank you, sir.

MR. KRAKORA: No, I stand corrected.

ASSEMBLYMAN TALIAFERRO: I see Assemblywoman Pinkin has a question.

ASSEMBLYMAN MUKHERJI: Assemblywoman?

ASSEMBLYWOMAN PINKIN: The further time goes on, how is that going to change what we're doing, as far as releasing people or not releasing people? Because by the time-- It sounds like by the time they get to a decision, we won't be in this particular crisis.

MR. KRAKORA: Well, we have a saying in my office that they're running out the clock, so to speak. Even with the Supreme Court decision, it now puts in place mechanisms for meaningful review of the Commissioner's decision to deny medical furlough to 2,000 people. And right now, as we speak, we're having a conference with the AG and trying to say, "Well, what's the time frame for the Commissioner to issue those statements of reasons?" Because the Supreme Court says that once that happens, our lawyers, or the inmates pro se, can submit a counter statement of reasons why they should be released; and then we have to wait for another decision.

So we're into June; even today -- or yesterday, I guess -- the Governor eased a lot of the restrictions. He did continue the public health emergency for 30 more days, but, I mean, your point is well taken. It's frustrating for those of us who are trying to advocate for some of these inmates, many of whom are old; and some of them are very sick, and have high rates of diabetes, high blood pressure. Release was denied to one young man who needs a double lung transplant because he suffers from a very serious rare lung disease. So it's frustrating, but I think your point is well-taken; and I don't really have a good answer because we're obviously going to comply as quickly as possible with the Supreme Court's decision last week.

ASSEMBLYWOMAN PINKIN: Thank you.

ASSEMBLYWOMAN SUMTER: I have a question.

So thank you so much for the testimony, and providing some insight into why we had the slowdown of the release of inmates who were at risk.

Do you know, by any chance, if there's a requirement that they have to have a place to live and they also have to have someone to monitor them for the places that they're released to?

MR. KRAKORA: Yes.

So part of the Executive Order requires the inmate to have a stable home -- housing set up to go to. That, as I understand it, has been one of the reasons for the delays in getting that portion done. And it's actually required -- even though I was a little surprised by this during the pandemic, especially in March and April -- that the Parole Board was sending individuals -- was taking the position that they had to actually send someone to the proposed housing of the inmate and do, like, a physical inspection and an interview of the sponsor.

And one of the points that came up in the Supreme Court litigation was that, if the inmate is not given a statement of reasons as to why he's being denied furlough -- which could be that the Parole Board and the DOC deemed his housing to be inadequate -- there was no opportunity for the inmate to correct this by saying, "Well, wait a minute. I could also, possibly, move in with my Aunt Millie, and she lives in Belleville, and she has a vacancy" -- that kind of thing.

So one of the points the Supreme Court is saying, is that due process was denied because the inmates weren't given a chance to fix alleged shortcomings in their release program -- or plan, I guess I should say.

ASSEMBLYWOMAN SUMTER: Thank you. I thought that was important for our Committee members and the public to hear.

MR. KRAKORA: Yes, that's been a big component of this -- making sure that that-- And that was the same thing in the County jail release. Everyone was concerned that the inmates had a safe place to go.

ASSEMBLYMAN MUKHERJI: And thank you, Assemblywoman.

And I wasn't sure if you were going to ask this question, but I will in any event.

Assemblywoman Sumter and I, with the assistance and input from our colleague and friend Assemblyman Johnson, have sponsored a Bill, A-4235. And I wonder if you have had an opportunity to look at it, with respect to public health emergency credits during a public health emergency, which would not, in any event, exceed 12 months of credits for a declared emergency. And if you had any thoughts on--

MR. KRAKORA: No; and I think -- correct me if I'm wrong -- there's a corresponding similar piece -- if not the same legislation -- that's been floated--

ASSEMBLYMAN MUKHERJI: Senator Pou, Senator Cunningham--

MR. KRAKORA: Yes, Senator Pou; right.

ASSEMBLYMAN MUKHERJI: --and Majority Leader Weinberg have sponsored it in the Senate too.

I can't claim credit for it -- with the ACLU's thought leadership have--

MR. KRAKORA: Right: I know Al Shalom from the ACLU played a role in drafting it; we've talked about it.

So yes, I am familiar with it.

Essentially what it would do is -- as I understand it, it would give every inmate, like, a year's credit; premised, I guess, on--

ASSEMBLYMAN MUKHERJI: Up to a year.

MR. KRAKORA: Up to a year; right.

ASSEMBLYMAN MUKHERJI: Six months per month.

MR. KRAKORA: Correct, right. And the idea would be that you get some extra credit for having to serve your time during these difficult living arrangements that are in place, like quarantines; and all kinds of extra efforts -- lack of contact with family members, because you really can't get in touch with inmates; lack of visits -- all those are kind of the justification for it.

I think it's a great idea; it makes a lot of sense. And the people who would be getting out would be people who are getting out anyway in the reasonably near future, right?

ASSEMBLYMAN MUKHERJI: Correct.

MR. KRAKORA: That isn't--

ASSEMBLYMAN MUKHERJI: With exceptions for certain enumerated categories of offenders, but--

MR. KRAKORA: Right. But I think that's an important point to make, because when you talk about the enhanced risk to public safety of releasing people early, it's only fair to note that whatever that risk is, it's the same in June as it will be in August, or September, or October. And it would have the very beneficial effect of reducing the number of people in prison, which really is the goal, because it benefits everyone to have fewer people who you have to protect.

So yes, I think it's a very well thought out idea that, as I say, really focuses on people who are, for the most part, getting out in the near

future. And some of them would be monitored on parole, too. They're not all people who *max out*, as we call it, right?

ASSEMBLYMAN MUKHERJI: Exactly right.

And it's also important to note that it doesn't affect an inmate's eligibility for parole consideration.

MR. KRAKORA: Right.

ASSEMBLYMAN MUKHERJI: It wouldn't limit it either. So we're not letting out prisoners en masse; that's not what's going on here.

MR. KRAKORA: With certain inmates, it moves them up to being eligible for parole, right? That's what it would do, too, to your point.

ASSEMBLYMAN MUKHERJI: Right.

MR. KRAKORA: And I think it's a well made point.

ASSEMBLYMAN MUKHERJI: Okay.

Any further questions for the Public defender from any member?

(no response)

Okay; in that case--

MR. KRAKORA: All right; thank you, again, very much.

ASSEMBLYMAN MUKHERJI: Thank you for appearing.

And next we will ask Professor Sara Wakefield, from Rutgers, to please present.

S A R A W A K E F I E L D, Ph.D.: Hi, there.

My name is Sara Wakefield.

Just a bit about me -- I hold a Ph.D. in Sociology, and I'm an Associate Professor in the School of Criminal Justice at Rutgers University in Newark.

My work is focused on, first, the physical and mental health consequences of incarceration; and second, on how criminal justice contact maintains and exacerbates racial inequalities in health and well-being. So that's what I study.

Importantly, I'm joining you today to represent my own views as an expert, and not those of my employer.

I was asked to prepare some brief comments on incarceration, and the conditions of confinement and how they lend themselves to COVID-19 spread.

I've heard much of what I'm going to say echoed in the statements of the Chairman initially. So I promise you, I will be brief.

But I want to, really, start by saying that the experiences of incarcerated people and those on community supervision already reflect the existing public health crises, right? So those crises are related to inequality, to lack of access to health care and affordable housing; to drug addiction, to the use of solitary confinement, and a host of other problems.

And so we should think about COVID-19 as amplifying all of those, rather than a new crisis. So more specifically, when thinking about COVID-19, I understand that much of that virus has been unpredictable, and I really have a lot of sympathy for those who are charged with responding quickly to it; so I want to say that. But several things about disease transmission in correctional facilities are predictable, and I've heard them talked about already. First, they spread fast in prisons and jails because we concentrate high-risk people in small spaces. Second, as was mentioned, incarcerated people have higher rates of underlying conditions that increase their risk of dying if they contract a virus. And third, the conditions of

confinement don't lend themselves to social distancing or hygiene practices that would prevent spread.

The last thing I also want to raise, that has been mentioned, is that prisons and jails aren't isolated or closed institutions, even though we like to think of them that way. So we have staff coming and going, visitors coming and going until recently; and many people are kind of cycling through the system and serving short incarceration stints. So when thinking about prisons and jails, we should be thinking about that, and understand that that's critical for understanding community spread.

The last thing I want to say is, really, that many states struggled with how to respond to this, and how to do so quickly and adequately. And I think about this summer as an opportunity for New Jersey. Prisons and jails are really early warning systems, and they can give us a lot of information about how COVID-19 is spreading in the community, if we think of them that way. And closely managing COVID for those in correctional systems is not only humane public policy, but would represent a massive and important public health intervention for all New Jerseyans, right? So we shouldn't think of these as separate issues.

I'll stop there. I realize I have echoed other comments, and I thank you for inviting me. I look forward to your questions.

ASSEMBLYMAN MUKHERJI: Any member? (no response)

ASSEMBLYMAN TALIAFERRO: Thank you, Sara.

DR. WAKEFIELD: Absolutely.

ASSEMBLYMAN MUKHERJI: Yes, thanks, Professor.

Okay, seeing no questions then, we would ask--

ASSEMBLYMAN TALIAFERRO: Chairman, would it be okay if we invited up Shavonna Holmes, and Bernice Ferguson, and Quadnesha Selph next? They have work obligations this morning.

ASSEMBLYMAN MUKHERJI: Yes, absolutely.

So we'll just take the family members out of order, and then, Jeannie, you'll speak after them, if that's okay.

ASSEMBLYMAN TALIAFERRO: Thank you, Chairman.

ASSEMBLYMAN MUKHERJI: So why don't we start with Shavonna Holmes.

Ms. Holmes.

S H A V O N N A H O L M E S: Hello; yes, hello.

ASSEMBLYMAN TALIAFERRO: We wanted to welcome you to the Committee and allow you to testify this morning.

MS. HOLMES: Hi, how are you?

ASSEMBLYMAN TALIAFERRO: Good morning.

MS. HOLMES: Thank you, Chairman, and to the members of the Committee, for the chance to speak to you today.

My name is Shavonna Holmes, and my husband Tyrone is currently locked up in New Jersey State Prison.

Having a loved one in prison is (indiscernible) at the time for their health, for society and for their safety. The only goal is for them to come home in a better condition than they left -- physically, mentally, and spiritually.

But being in this pandemic, my fear has only increased-- I'm so, so nervous; I apologize, I apologize.

ASSEMBLYMAN MUKHERJI: No need to apologize.

MS. HOLMES: I've never been so sure if it's a right for him to protect himself from getting sick, or if the guards would listen to him if what he needed was to go into solitary for being sick. We know the best way to protect ourselves is social distance. Tyrone cannot do that. My husband is scheduled to be released in the fall; I was already counting down the months until his return. I want to get him home to his family and to his community. But this is terrifying to think that in those remaining months in the spread, he might get sick or die.

Please don't give my husband a death sentence. This is not justice. Please do something about this; vote on the Bill to give my husband additional credits for the time he has already done living in harm's way.

Thank you.

ASSEMBLYMAN TALIAFERRO: Thank you, Ms. Holmes.

MS. HOLMES: I apologize; I am so nervous.

ASSEMBLYMAN TALIAFERRO: No.

MS. HOLMES: I've never done this before.

ASSEMBLYMAN TALIAFERRO: Please don't apologize. For us, as members of the Legislature -- it is truly helpful to us hearing real life, personal stories. And your story is helpful to all of us as we try to figure out this issue.

So thank you so much.

MS. HOLMES: Thank you.

ASSEMBLYMAN MUKHERJI: Thank you, Ms. Holmes.

Ms. Holmes, do you have a minute, just in case anyone on the Committee has questions for you?

MS. HOLMES: Yes.

ASSEMBLYMAN MUKHERJI: Thank you.

Does any member have a question for Ms. Holmes for her family's experience? (no response)

Okay, thank you so much for your time in being with us--

MS. HOLMES: Thank you.

ASSEMBLYMAN MUKHERJI: --and breaking away from work to talk to us.

MS. HOLMES: Thank you.

ASSEMBLYMAN TALIAFERRO: Thank you, Ms. Holmes.

ASSEMBLYMAN MUKHERJI: Bernice Ferguson.

B E R N I C E F E R G U S O N: Good morning; good morning to all.

Chairman Mukherji, and Chairman Taliaferro, and all of the members of these Assembly Committees, I want to thank you for the opportunity to speak to you this morning about this very difficult time for me.

My name is Bernice Ferguson; my son, Rory Price, died in a prison waiting for his release date. On March 9, he was to be released. That was set for last month.

Rory -- he was my firstborn child. He just turned 39 years old on March 21. It was the last day I spoke to my son.

He was my sweetheart; he was my joyous young man. Rory had a laugh that made everyone in the room just laugh; he was very infectious. He was very kind and giving; and he was my everything, besides my other three children.

I never expected to receive news that I would never hear my son's laugh, or get to see him smile, or hug my son again.

I was told that my son Rory was rushed to the hospital on April 14; and from that day on, it was like a downhill spiral. I was never, ever told anything. All the calls -- I was just ping-ponged around, as a mother. My family members, my daughter and my mother-in-law, were trying to get information from either the hospital or from the facility. No one told us anything. Me, as a mother, I am very, very upset and angry; because me, being a mother, I should have been told something. It doesn't matter if I wasn't on his contact list or not, I am his mother. And when I told them that I was his mother, they told me, "I'm sorry; I can't help you."

I'm the only surviving parent he had left. And to be told that "I can't tell you anything because of the HIPAA law--" Listen, I wasn't worrying about the HIPAA law; I was worrying about my son. But that didn't matter to them, because I understand they're following the rules and guidelines of the law. But that was my son.

I never heard anything from them; still to today -- nothing. I still haven't even received his belongings; nothing.

I was told that my son was rushed to the hospital, like I said, and that he couldn't breathe. I don't know anything else about his final hours or about his last days.

Did he ask for help? Did anyone listen to him when he said that he was sick? I still can't get any questions and no answers. My baby's gone, and he's never coming back. I have to go to a graveyard to see my son; or I have to wait until I leave here to see my son.

What am I to do when there's nothing but my emotions? Not a thing. I pray that everyone there at that facility and that halfway house --

that their children never, ever have to be exposed to that infectious viral disease and lose their life.

My son was a human being. My son was not given personal protection equipment. He was not sent home to me when they said that he was sick. There were no phone calls; there was nothing.

My son was given a death sentence.

It's so unfair that I have to live the rest of my days like this. I'm on medication because I can't deal with it; it's hard for me. And I have to be strong for my other children, because I have another son who is in a facility because he was shot in his face. And I'm trying to be strong for him, but he can't even walk.

I have two other children; I have five grandchildren. And I am trying to stay strong for them, but it's hard. This is the worst experience I've ever had to encounter in my whole entire being.

What am I to do? I don't even know what to say to anybody.

I just want to say that I think they need to pass some laws that when people are sick in these facilities, that they should be released home to their families. And when they are in the hospital sick with this virus, or any other illness, that these family members need to be told what's going on, on a daily basis. Because for me not knowing every day when I'm calling was so heart-wrenching for me.

I don't want to take up any more time; but I'll just say to the Committee that these laws need to be changed to help everyone do what they need to do, so these people can get home. And if they are going to be in the stage that they're going to pass away, let them die at home. Not let them die in a hospital or in the facility, where they're alone, and they're by themselves.

I don't want to die by myself, and I just think it's only right that that be done.

Thank you.

ASSEMBLYMAN MUKHERJI: Thank you, Ms. Ferguson.

So sorry for your loss.

And if I may ask you a question, after just making a quick comment.

On May 5 or May 6, *nj.com* published an article, which mentioned what your family went through, and your loss. And that was one of the reasons that prompted us to invite you to speak with us today.

In that article, I think at that time you hadn't gotten any information from the Department of Corrections or the authorities about the circumstances surrounding your son's death.

MS. FERGUSON: Yes.

ASSEMBLYMAN MUKHERJI: Have you-- It doesn't sound like -- have you gotten any more information? Were you the emergency contact? Has anyone else in your family gotten any more information since that time, until today, in over a month?

MS. FERGUSON: I wasn't the emergency contact; my mother-in-law was, and my daughter was. But they never told them anything. Every day, all day, they called and never got any answers.

I'm going to tell you when we got anything from those people -- was the day after my son passed away. We were told that he passed away from COVID-19.

ASSEMBLYMAN MUKHERJI: Chairman Taliaferro and I will co-opt your quest for information, to see if we can obtain any additional

details about that, to help bring some sense of closure to your family, even though it's not going to bring your son back.

In the English language, we have a word -- when you lose your spouse, you become a *widow* or a *widower*. We have a word when you lose both your parents -- that you are *orphaned*. There is no word for losing your child, because it's unnatural. Your child should outlive you.

MS. FERGUSON: Yes.

ASSEMBLYMAN MUKHERJI: So we can't pretend to understand what you're going through -- at least I can't -- but we do extend our deepest condolences to you, and thank you so much for being so brave and taking the time to share your experiences and your thoughts with us in these Committees today.

ASSEMBLYMAN TALIAFERRO: Chairman, thank you.

ASSEMBLYMAN MUKHERJI: Anyone have any more questions?

ASSEMBLYMAN TALIAFERRO: Thank you.

Just to echo your sentiments.

Ms. Ferguson, as the Chairman had mentioned, both him and I will do everything we can to get you that information that you deserve.

You say your son had just turned 39; I'm 38, I'm turning 39 in January. So you're talking about your son -- it makes me think about myself. And, you know, your courage in telling your story is-- I always say, when I'm sitting on these Committees, you get a lot of facts, and figures, and numbers; and they sometimes go in one ear and out the other. But the stories that we hear, stories like yours are stories that we don't forget.

So I appreciate you for taking the time, certainly during this difficult time, to share your experience and your stories with us.

Thank you.

MS. FERGUSON: Thank you, thank you.

ASSEMBLYMAN MUKHERJI: Thank you.

Any other member have any questions for Ms. Ferguson? (no response)

Okay; thank you for your time.

MS. FERGUSON: You're welcome; thank you.

ASSEMBLYMAN MUKHERJI: Quadnesha Selph.

QUADNESHA SELPH: Good morning.

ASSEMBLYMAN MUKHERJI: Good morning, ma'am.

ASSEMBLYMAN TALIAFERRO: Good morning.

MS. SELPH: I'm a little, kind of, upset hearing Ms. Ferguson talk. It breaks my heart.

A little different, similar situation.

Sorry for your loss, Ms. Ferguson; my son is still alive, but I experienced the same thing you are going through -- you went through.

Good morning to everyone. Thank you to the Law and Public Safety Committee; to the Assembly Judiciary Committee; to the Chairman, Assemblyman Mukherji, for the opportunity to speak with you guys this morning.

My name is Quadnesha Selph; I am the mother of a juvenile who is in State custody.

Last month, my son was diagnosed with COVID-19. My son tested positive after he was already put in isolation. I didn't find out anything -- anything, until I made phone calls.

Normally, when he doesn't call, I call to find out what's going on. I called that morning; and then I called that afternoon, I was told, "Did I get a phone call?" "No; what's going on?" "Your son was diagnosed."

As a mother, I should not have to experience this.

I called -- I reached out to these guys, and no one said anything. It breaks my heart to this day there's still a lack of communication. It's not fair.

I'm being told there's no movement, but movement is still being made.

My son has asthma. He just didn't get asthma; he has had asthma since birth. I am scared for his life while he is still in custody, because there is still a lack of medical treatment.

I'm very concerned about the system, which doesn't see our children as children, and doesn't treat mothers like mothers.

This (indiscernible) system has been exposed for what it is: a system designed to just punish; that's it. If it was designed to rehabilitate and treat, I, as my child's mother, would have been informed and consulted at every point in my child's illness.

As far I can tell, there is no real plan in place to protect our loved ones who are in jail and prisons. And so we need our Legislature to create oversight. We need you to help release our kids to their homes, or at least to places where their safety and health is a priority.

Please protect our kids, and protect our communities.

Thank you.

ASSEMBLYMAN MUKHERJI: Thank you, Ms. Selph.

I'll ask my Co-Chair if he'd like to respond, or comment, or question Ms. Selph, first.

ASSEMBLYMAN TALIAFERRO: More of a comment.

Again, thank you, Ms. Selph, for helping us better understand the circumstances that you're going through right now.

And as you can see, we've got all our members here; and everything that we hear today is helping us help you, and (indiscernible) your son during these difficult times.

So I'll stop there; I want to see if any of our members have any questions or comments for any of our affected family members today.

ASSEMBLYMAN MUKHERJI: So I'll begin; and thank you for that, Assemblyman.

So first of all, Ms. Selph, thank you for your bravery in coming forward and in speaking with the Committee today.

You raised a point. So your son was at a Juvenile Justice Commission facility; is that right?

MS. SELPH: Yes; he's still there, yes.

ASSEMBLYMAN MUKHERJI: And so he's how old? Is he 19 or 20?

MS. SELPH: He's 19; he'll be 20 on November 21.

ASSEMBLYMAN MUKHERJI: Okay; and an asthmatic.

So he was put in isolation; and unlike Ms. Ferguson -- who was denied information about her adult son in an adult facility, where I do understand that there are health care privacy concerns, and HIPAA, and rules

like that. The Department has to abide by -- even when we're dealing with a juvenile facility, you haven't been able to get any access to information about your son's condition, I guess, other than speaking with him directly? Is that your situation?

MS. SELPH: Yes, sir.

ASSEMBLYMAN MUKHERJI: Now, when he was hospitalized-- So we had heard that the JJC had implemented a process through which any family member would be able to either talk by phone or video chat with any JJC -- anybody in JJC custody in medical isolation, at least every other day. Have you been able to, or has he been able to speak with you every other day? Is that happening?

MS. SELPH: That's false.

ASSEMBLYMAN MUKHERJI: That's false?

MS. SELPH: Yes, sir.

ASSEMBLYMAN MUKHERJI: What has your experience been?

MS. SELPH: My experience with it is -- I have to use resources, that are helping me through this, before I get a response. There are no extra phone calls, there are no extra video calls. The video calls were supposed to be, from my understanding, at least two times a week. It's only on Sunday. And then when it's their time on Sunday, you're not even really getting a phone call from them, the video call--

ASSEMBLYMAN MUKHERJI: Sorry to interrupt you, ma'am. The Commission has said, actually, that's it's at least every other day while in medical isolation.

When he was a medical isolation, was he not able to make a call or a video call every other day?

MS. SELPH: No, sir; no, sir; no, sir.

ASSEMBLYMAN MUKHERJI: Okay.

Thank you.

That certainly warrants follow-up from the Committee, because that's inconsistent with what we have been told.

Any other members -- any questions of this--

ASSEMBLYMAN TALIAFERRO: I don't see any-- There are no questions from any Committee members.

ASSEMBLYMAN MUKHERJI: Okay.

Then thank you so much for your time here today, all three of you. I know that had to be difficult, but it was important for us to hear those experiences firsthand.

So I would ask, now, the ACLU of New Jersey, represented by its Legal Director, Jeanne LoCicero.

Please.

J E A N N E L o C I C E R O, Esq.: Thank you, Chairman Mukherji and Chairman Taliaferro, for the invitation to speak with you this morning about how COVID-19 has exacerbated conditions in our State prisons and County jails.

The ACLU has been working with the Public Defender, Reverend Boyer, and others testifying today regarding many of these issues. I'm so grateful that we all had a chance to hear from Ms. Ferguson, Ms. Selph, and Ms. Holmes.

My office regularly receives reports from people and their loved ones about the inhumane, unhealthy, and dangerous conditions in New Jersey's prisons and jails; and I've seen them for myself. I've been on staff for 15 years and have been advocating for incarcerated people and have been inside on court-ordered inspections of facilities, including at New Jersey State Prison.

And so the Public Defender already focused a lot on the ACLU's efforts regarding release, so I'll focus more on conditions issues. But I will note that releasing people not only benefits the individuals we're talking about, but also our entire state; because it reduces the spread of infection and reduces the strain on our already-taxed healthcare system and prison system.

And I know Assemblywoman Pinkin mentioned about the timing and urgency; and I would say that this issue is going to remain urgent for a long time. And that's because while our State is loosening restrictions, public health experts are still reporting that these past few months might have been just the beginning of the pandemic, and that we are likely to see additional life-threatening waves of this infection.

And so to that end, I know we've already started talking about A-4235, and I will ask that you all, please, support that Bill and get it posted for a Committee hearing. Because there's just no reason that someone who's maxing out on their sentence on July 1 is still in a prison today. It's unhealthy for them, it strains the systems, and we should be expediting release.

The Public Defender noted the high rate of death in New Jersey, and just so that everyone in this hearing knows -- that New Jersey has *the* highest death rate in the country as a result of COVID-19, with 46 deaths of people in DOC custody. And this death rate cannot simply be attributed to

our state's location as an epicenter of the outbreak. New York, Connecticut, and Pennsylvania, combined, only have 31 deaths in their state prison systems -- so combined -- and thousands more in their custody.

I know the (Indiscernible) noted that people -- and the Professor noted -- that people in New Jersey's prisons are sicker than the general population. And then, on the racial disparities issues, just to bring it home, Black people are incarcerated at a rate that is 12 times higher than white people. So there is a disproportionate impact happening.

And prisons are particularly vulnerable because of their design, right? Infectious disease can very easily spread because people are living in close quarters; the facilities are densely populated; they're sharing toilets, showers, eating environments; and the ventilation is, frankly, terrible. So it's physically impossible to socially distance.

And so, early on, we reached out to every jail and prison administrator in the state, asking officials to be proactive in their steps to prevent the spread of the virus and offering recommendations from public health experts. But we soon learned that DOC was slow to roll out sanitation supplies, or institute increased cleaning protocols, and they weren't providing adequate protective equipment to staff or people in custody.

And so just to be clear: More than a month into the pandemic people inside didn't have access to sufficient soap or handwashing opportunities. They had not been supplied sufficient masks, and they were being subject to discipline if they were making their own. They didn't have bleach or appropriate cleaning supplies to keep their cells sanitized, and DOC was not regularly disinfecting common spaces or common use items, like

telephones. So people would use telephones without any sanitation between them.

And then on to the hand sanitizer issue -- we asked, on March 16, for them to make hand sanitizer available to people in custody. And they only did it, I believe, in early May. Other states were way ahead of us on that. And so in late April, as the death rates were climbing, we again wrote to DOC and identified the significant problems that were putting everyone's health at risk. And so, shortly after that, we did hear that supplies were more available, and that policies were changing.

But as some of the testimony we just heard, they might be saying some things, but what's actually happening on the ground is very different. And so, every week, we are still getting reports of shocking practices that put people at risk of infection.

And just one recent example is a report of a healthcare provider who was dispensing medication in a unit. She was touching patients and other surfaces without changing gloves between each patient. And the person who contacted us noted that this was in view of cameras. And it's not a practice we would ever stand for in any other setting, and we shouldn't be standing for it in New Jersey's prisons.

And so prison and jail health care is an area ripe for reform, and the ACLU is eager to work with you to address that critical need. When the pandemic hit, as the Professor indicated, all of the existing systemic weaknesses were amplified. People were going untreated. They were not getting diagnosed, and they were being blocked from access to health care.

And so just to name testing as an issue -- early on, the DOC's testing protocols seemed non-existent. And they'll talk about their healthcare

contractor; but ultimately, DOC is responsible for making sure people in their custody get the care they deserve and are entitled to.

ASSEMBLYMAN MUKHERJI: I hate to interrupt you, Jeanne. When you say *healthcare contractor*, you mean Rutgers?

MS. LoCICERO: Yes, yes.

ASSEMBLYMAN MUKHERJI: Okay.

MS. LoCICERO: And so I just want to be clear that even though they contract out with Rutgers, ultimately the State is responsible for the care of people in their custody. And so we were receiving reports from across the prison system about people with very obvious symptoms who were not being tested. And they would have qualified for testing outside.

And I remember thinking about folks in Northern State Prison; and Essex County was rolling out testing sites and how they would have been eligible there, but could not get tested because they were behind bars. And then we come to find out that Northern State is one of the worst-hit prisons in the system, with 175 cases of COVID-19 and 9 deaths as of yesterday.

So the public really deserves to know why were our prisons deprived of these critical public health rules.

I'll just also note lockdowns, which came up a bit. We're hearing reports about people in DOC custody, and in jails, that when they've been exposed to or contracted the virus are being subject to lockdowns that are like a mirror image of solitary confinement. Which means they're only allowed out of their cell for a half-an-hour a day to do kinds of things like calling home, taking a shower, calling a lawyer -- it's very extreme. And so those actually increase the risk to facilities, and to the spread of the virus, because people are going to be more reluctant to report their symptoms out

of fear that they're going to be isolated in these extremely difficult and onerous conditions.

And so I'll just say that, as you're probably aware, it is notoriously difficult to hold the DOC accountable when it harms people in their custody, and we are eager to work with you on long-term solutions. But in the short term, I would just say, again, support A-4235, and also continue your investigation of the management of this crisis.

And I am really heartened by the work you're doing today with families and advocates; and I would encourage you to reach out to formerly incarcerated people.

Our healthcare access and inequities have been laid bare in the face of this pandemic, and the failed response in our prison system has been disastrous. So for the sake of our whole state's well-being, we must seriously think about the purposes of our prisons and how they need to be operated. Because as goes the health of our prisons, so goes the health of our entire community.

And if I may, Chairman, I would like to just address the incident in Franklinville this morning.

ASSEMBLYMAN MUKHERJI: Please.

MS. LoCICERO: And so I just want to note that I'm not surprised that a Corrections Officer engaged in this kind of racist stunt; and I'm very grateful for the swift response from everyone about it.

But you could also have a whole hearing on problems within the Department of Corrections culture. We hear reports all the time about officers who are racist, sexist, and homophobic; and people in our prisons are

subject to a very toxic environment. And there's no way to be accountable for this.

And I'll just tell you one quick story, which is -- we represented a client who complained about an officer's racist comments. The DOCs response was not only to say it didn't happen, but then they charged this person with perpetrating a fraud, and he ended up in solitary. And we represented him on an appeal successfully. But who's going to come forward when you're (indiscernible) yourself to discipline and a potential record that could keep you from getting paroled? Our systems of accountability assumes that people in prison are lying about what happens to them. And we're not going to be able to catch the cell phone video of an officer assaulting someone or engaging in some kind of racist conduct. And in my experience, the videos that are supposed to exist often don't.

So it's really time for us to start listening to and believing the people in our prisons who are reporting wrongdoing; so that, as we're working to reimagine policing in our communities, we're also reimagining Corrections.

So thank you again for beginning this conversation, and we look forward to working with you all.

ASSEMBLYMAN TALIAFERRO: Thank you so much.

ASSEMBLYMAN MUKHERJI: Thank you for your comments.

I have a question, with respect to what the ACLU has learned through its work and the litigation with respect to testing.

So we have-- One of the more encouraging, I thought, pieces of news in all this was the Corrections Commissioner told me that all inmates, staff, and officers in the system had been tested as of the last week of May. And that, in terms of continuous testing, we're beating what any other prison

system is doing -- except for, maybe, Michigan, which rivals our efforts with respect to continuous testing -- and that we now have more than adequate capacity. I think that they've been working with Rutgers, and using the saliva test, and that that has helped in the more recent days or weeks.

Is that consistent -- would that surprise you? I mean, is that consistent with what--

MS. LoCICERO: That is consistent.

And it's a terrific development, for sure. I would just note that it was very late in the game when-- People were just not having access for, like, the first month or so, unless they were very, very sick. And so it continued to spread, because they couldn't identify how the virus was spreading. So it really did have an impact, early on, on the severity of the spread in our facilities.

ASSEMBLYMAN MUKHERJI: Some of the things that we've heard about relate to whether there were restrictions imposed on inmates and staff wearing face coverings, or being supplied masks; and we've heard conflicting accounts. Now, the Department has advised that masks were distributed by the middle of March -- consistent with when the Governor was putting the information out there -- but that they weren't mandated for use -- which sort of defeats the purpose -- until much later.

And then we have the situation like the woman who died in the shower at Edna Mahan.

And so, just in terms of what you think the most prevalent or widespread problems were, with respect to containing the spread within the system, what would you highlight for us to explore?

MS. LoCICERO: So on the masks issue -- they might have been passing them out, but I believe -- our understanding is that that was only to staff; that they were not providing that to people in custody until sometime in April. And even then, my understanding is that it was insufficient numbers; and, like, they would rip or break and not be replaced.

So I think masks are an issue.

Sanitation is a huge one. Prisons are just not sanitary places generally, and access to adequate cleaning supplies is a real issue. I mean, Chairman, I can share some letters with you we sent to the DOC highlighting particular issues. But I would say testing in mid-April was still a real problem. Sanitation, access to health care-- Some of the other issues are chronic care patients or patients with non-COVID-related issues were having problems accessing health care because the system was so strained.

So it's actually hard to identify any one particular thing. And so I'd be happy to follow up with you, with some of the correspondence we had, and with some other specifics.

ASSEMBLYMAN MUKHERJI: Thank you.

Any questions from any other Committee member?

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, I have a question--

ASSEMBLYMAN MUKHERJI: Sure; Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: --for Ms. LoCicero.

Thank you for your testimony.

As you know, the curve has flattened substantially outside the prison system in the recent weeks. Do you have any fresh data, like up-to-date data, now that we're in June, as to what the spread looks like in the

prison system? Maybe this is a question more appropriate for the Department of Health; I don't know. But have you seen any recent data showing what the status of this spread is in the prison system in, say, late May or even into June now, compared to where it was in March and April?

MS. LoCICERO: I don't have that data handy. I think the DOC would be the best source for that information.

ASSEMBLYMAN DePHILLIPS: Okay.

ASSEMBLYMAN MUKHERJI: I was going to say the same thing. And I don't mean to throw shade, but it would be nice if they were here; but we can't ask them.

ASSEMBLYMAN DePHILLIPS: Yes, well, that's a very good point.

MS. LoCICERO: I will note that they do keep some data on their website; they have a COVID page.

ASSEMBLYMAN DePHILLIPS: And then my second question is to Assemblywoman Pinkin's comment earlier, as to timing -- what timing are you thinking is appropriate as to how long and how far out the benefits of the program should extend? You mentioned -- and I don't disagree with you -- that when you're dealing with someone who's going to be released July 1, there's no point in waiting, since we're now in June. But how far out are you thinking, or how far out are you recommending?

MS. LoCICERO: Well, I can tell you that we're working with medical experts in some of our litigation related to immigrants in detention. And so I don't think there's any set time frame we can identify right now. What we know is, that there's still active outbreaks in facilities. And when

there are active outbreaks, we need to be putting in all the resources we can and protecting people as much as we can.

And so I would say that we should continue to push for releasing people who are vulnerable, or close to the ends of their sentences, who can be safely released. They should be, because we want to-- Because conditions are so dense -- like, the population is so dense -- we want to be able to provide some space for people to protect themselves while there's infection inside of the facilities.

ASSEMBLYMAN DePHILLIPS: So you mentioned outbreaks. Where are the current outbreaks, as we sit here today in June; in which facilities?

MS. LoCICERO: Again, as far as I know, I don't have-- The DOC would be the best source for data about infections in each facility. But as far as I know, they have been in every facility in the state. And so I don't know about active cases; they would be the best source on that.

ASSEMBLYMAN DePHILLIPS: Okay, thank you.

MS. LoCICERO: Just to highlight that the Professor and others have mentioned that people are coming and going all of the time, and so it's very difficult to keep the virus out, even if there are zero positive tests at any one given time.

So I would just say that during the course of this pandemic we need to be vigilant about protecting people who live in our prisons, who work in our prisons, their loved ones, and our communities.

ASSEMBLYMAN DePHILLIPS: Okay, thank you.

And Mr. Chairman, I agree with you that we need this data from the Department of Corrections. And it's regrettable that no one from the

Department of Corrections is here today to support your hearing. So I assume you'll be requesting that data, and I would love to see that, as to where we stand. We're in June now; and it's just an unknown, as to what the status of the spread is.

ASSEMBLYMAN MUKHERJI: We'll certainly do that, in Committee staff, for both Committees -- if we can reach out to the Department and follow up with the data that would be responsive to that question.

Thank you, Assemblyman.

And then, I would just -- again, thanking you for your comments -- just, maybe, by way of observation-- I hear what you're saying, with respect to culture; and that's disconcerting and that's troubling. And I'm sure you'll agree with this point as well -- that it's also not one-size-fits-all, because that video, as Chairman Taliaferro mentioned in his opening remarks, was disgusting; what we saw depicted is deplorable. Probably all of us -- most of us, if not all of us, would agree with that, I'd hope.

But, I mean, I served in the Marine Corps with a number of correctional officers in their civilian jobs, who are some of the most upstanding men and women I've ever known in my entire life. And just like all men and women in uniform in law enforcement outside of the prison system-- we had an unfortunate incident that's been publicized over the past week because there was a video released with the Trooper involved shooting of a Black man. But that doesn't make that Trooper, Derek Chauvin-- That doesn't mean Maurice Gordon deserved to die -- may he rest in peace -- and that's going to be determined by a grand jury, which is examining it. But we're not the Executive Branch; I'm free to comment, I'm free to look at a

video and just share the observation. And I think that that's a very unfortunate situation.

By the same token, Sergeant Wetzel can't, necessarily, from what we see, be put in the same boat as the heinous acts that we've seen in the horrific and undeserved police violence we've seen in other incidences throughout the country, including, obviously, George Floyd and others. That doesn't mean-- I mean, the overwhelming majority of men and women in blue, I think, look at a video like that and they're embarrassed and they're disgusted by it, because that's not what they signed up for; that's not consistent with the values I think that they work to uphold.

Any other members with questions or dialogue with this witness?

(no response)

Okay; Jeanne, that was incredibly insightful. Thank you so much for all that you and your organization are doing. And I feel better being a New Jerseyan when (indiscernible) is looking out for all of us, in the values that we stand for as New Jerseyans, with the assistance of able staff like you.

Next, if we can call up Reverend Dr. Boyer.

REVEREND DR. CHARLES F. BOYER: Thank you.

Thank you, Chairman Mukherji and Chairman Taliaferro, and one and all of the members of the Committees, for having this hearing, seeing the gravity of this situation.

ASSEMBLYMAN MUKHERJI: You've become a go-to for all COVID-19-related hearings. And it really speaks to the work that you do in the community, Reverend. But two days in a row -- but thank you for being with us.

REVEREND BOYER: Well, I appreciate that. I have a lot of gray hairs to testify to, kind of, the state that we're in right now. But I do have a major thank you to all of you for pulling this together.

And all of the folks have really said so much of what I would have touched on, so I'm just -- I'm going to try my best not to be repetitive, and just try to summarize some of this and focus on an area or two.

If there's anything that I can really stress, it's the urgency to do something. You heard from Shavonna Holmes, from Bernice Ferguson, from Quadnesha Selph. And these are only three of hundreds of calls, text messages, direct messages that myself and our Coalition -- the Salvation and Social Justice -- receives constantly from families terrified about the conditions in the prisons, and terrified for their loved ones.

And so I can't stress enough the urgency of pushing something forward to change this situation.

And it is critically important that we do get that data from the DOC to understand where we currently are. There are two things that I would state in relation to that: Is that time is not on our side to figure it all out, because when we took that time, we lost 45 people; every single day we can lose another life. Just yesterday, we lost LaPatrick Turner, age 55, who should have gotten out by the furlough order. He only had a three-year sentence, and had served pretty much two years of it.

So I can't stress enough the urgency.

Just to give you some irony here -- my ministerial doctoral work was actually around the inadequate health care provision in New Jersey prisons. And I actually never expected to actually have the opportunity to apply that work; and yet, here we are.

New Jersey abolished the death penalty in 2006 and yet so many of the incarcerated, due to the punitive nature of our system, have been given a de facto death sentence, because our prisons are unnecessarily crowded. You already know the racial implications in our prisons, in our punitive system, which has already been talked about. And just think about what has been said on the call today, starting with Joe, all the way down to Jeanne, right? There are so many people in our prisons who absolutely serve no purpose in being there right now, other than our need, as a state, to be as punitive as we possibly can.

There are folks who are due to get out soon who we're just keeping in, just because. And as was stated, it serves no public health or no public safety interests to keep people incarcerated when they're due to be out soon anyway. The vast majority of these 46-some-odd people who have died in our prisons have been elderly; when the data is overwhelming that elderly people do not recommit offenses.

You heard the data about drug offenders, and how many people that is.

And so when we just look at the vast amount of people incarcerated who really serve no benefit to the state, other than their death -- by the inaction of the State and our massive sense of retribution -- I just want us to soak that in for a minute. There are literally thousands of people in our prisons who serve no public safety interest, who could be let out tomorrow.

So I'll just wrap up with these few pieces.

Again, I urge you to be urgent; I urge you to move quickly. Because to lose even one more life -- one more life-- If we truly value every

life -- regardless of what side we stand politically, I believe we all value life. And if we do that, to lose (indiscernible) would be tragic. And it was that lack of urgency that committed nearly 50 people to death. It's the lack of transparency, when we tried to work with the DOC; we tried to team them up with housing solutions, where, under the cover of secrecy and not talking to advocates, a lot of those solutions weren't even taken into account. Why is it that there was not a plan in place for a public health emergency in the first place, especially after Hurricane Sandy? Why would New Jersey not have a plan in place, given a catastrophic event?

Which basically means all we were looking to do was to bury our prisoners. So we really need to look at that.

The last piece that I would offer you in this discussion is that the furlough, in our opinion, was never sufficient. Because the furlough was only a temporary release. And furlough is not freedom. And the people who the Administration was willing to furlough, were people, by their own admission, who really served no purpose in being in prison right now.

So it was holistically insufficient and disingenuous to do it through furlough; because basically what it says is, these are the people who absolutely, by nobody's estimation, by nobody's argument can argue-- they should not be incarcerated right now. And they still bogged that down with a huge amount of bureaucracy and checkpoints that slowed down the system so dramatically that, over two weeks in, not one person had been let out yet. And ultimately, that bog down of bureaucracy in the process led to these deaths.

And the reason why I think this is bigger than just the DOC, but really falls on all of us, and really also-- And I agree; I believe the Governor

and the Governor's team has done an outstanding job given-- I mean, no one expected this; and so I don't want to take away from that at all. But what I would say is that advocates pressed the Administration every day, asking for something, begging, pleading for something to be done. And those cries were ignored, and people died as a result.

And so the responsibility for this cannot merely be made out -- Marcus Hicks and the DOC as the scapegoat. It is an indictment on the entirety of the way we do things, and the punitive nature that New Jersey has in regards to who and how we incarcerate.

And so I thank you for your time. I beg you to act with urgency. I beg everyone to sign on. And what just underscores that there is a better way to do it, is the very piece of legislation that you all have been willing to put on the table, which is commonsense -- folks who are getting out anyway, and that will get out a critical mass and save lives.

Let's do that as soon as possible, please.

Thank you.

ASSEMBLYMAN MUKHERJI: Thank you, Reverend; thank you.

Just a question that-- Early on, I think in April, we heard that those inmates who were medically released -- the Department was attempting to prevent them from speaking to reporters. Do you have any thoughts on what the purpose of the media ban might have been; any reaction to that? We're glad that they reversed course quickly, of course. It seems ill-advised.

REVEREND BOYER: Yes; so thank you for that question.

I mean, I can't speak to -- I'll speak to my opinion. My opinion is, the folks who are incarcerated are the folks at the margins, right? One of

the things that we found very disconcerting is when we would lift up -- I think some of you know we had a 450-car funeral procession around the Trenton War Memorial, which was mostly made up of families who had lost loved ones, or whose families were still incarcerated.

And some of the pushback seemed to be from the Administration -- that we've lost 11,000 people in the state, and this is only 40-something.

Think about that for a minute -- to even rationalize.

And so what that statement is, is that these are the 40 who are expendable because they're in prison.

So the way that we react to the 40, the way we react to the 18,000 who are incarcerated, is solely based on the fact that they're on the margins, and people aren't going to make as much noise for them.

And so there is always-- The power structure, when not challenged to be as just as possible, will always look to silence the voices of the folks on the margins. And that is why the most critical testimony -- and I thank you; I salute every single one of you -- because the most critical testimony you heard today was from Shavonna Holmes, Bernice Ferguson, and Quadnesha Selph. And I thank you all for raising those voices, and not shutting those voices down.

ASSEMBLYMAN MUKHERJI: Thank you, Reverend.

Members?

ASSEMBLYMAN TALIAFERRO: Reverend, as you know, I just want to thank you.

You've been a source of inspiration, not only for myself, but I'm sure many throughout the state, with your tireless advocacies.

I was on a call with you yesterday. I know, as the Chairman said, we call upon you as a voice of reason and guidance during these difficult times.

So I just couldn't let you go without thanking you, yet again, for your work.

ASSEMBLYWOMAN SUMTER: And the same here, Reverend Boyer. Thank you for being a partner with us, for Salvation and Justice, and making sure that we keep people first. And you're right -- hearing from the family members is -- it just keeps us on purpose and on mission.

Thank you.

REVEREND BOYER: Thank you so much, Assemblyman and Assemblywoman; and thank you for your continued partnership, your heart, and your compassion.

ASSEMBLYMAN MUKHERJI: Okay; thanks, Reverend.

And next we'll have, on behalf of Local 105 of the Policemen's Benevolent Association, the President of PBA Local 105 -- which represents the State's Correctional Officers -- Bill Sullivan.

WILLIAM SULLIVAN: Thank you, Mr. Chairman and members of the Committee, for this opportunity to speak.

First off, I want to reflect on the actions that took place in Franklinville that were brought up earlier.

Under no circumstances do we condone nor will we tolerate those actions that occurred in Franklinville. Please do not let one video represent the overwhelming majority of our membership; 99 percent of our members serve with honor and dignity daily.

For the ACLU -- that comment-- I would like to open a door of dialogue to meet in the future to discuss these issues. If you want to, after this hearing, we'll exchange contact information; I'd appreciate that.

I supplied a written statement; it was about four pages. I don't want to take up too much of your time. If anybody has any questions for me, I'm more than happy to answer.

ASSEMBLYMAN TALIAFERRO: I just wanted to, again, thank, as I said in my opening remarks, the Local 105 for your swift action. And I believe the Chairman had mentioned earlier -- you know, from our side and our perspective, we never want to paint an entire -- all of our Correctional Officers with a broad brush. I served as a Freeholder in Gloucester County and had an opportunity, when we were going through with closing our jail -- I really got to know a lot of our Correctional Officers really well and had an opportunity to listen to them, firsthand, about just how difficult that job is. Jobs that, I know personally, I'd never be able to do because it's just something -- it's a talent, being able to work in that environment.

So I just wanted you to hear from me -- I'm sure you'll hear from other members of our Committee -- that we respect the work that you do, and understand how difficult it is, and appreciate you taking the time out of your day to have this dialogue. And we certainly look forward to continued conversations as we go forward.

But again, thank you for the response with the Franklinville incident. We appreciate that.

ASSEMBLYMAN MUKHERJI: And thank you, Chairman.

So I'll maybe start with a couple of questions, Mr. President.

But before I do, I think that we salute -- and I think I speak for both Committees when I say we salute the work you do, your men and women do, your members do, every day. And two of them made the ultimate sacrifice, in terms of COVID-19. We lost Nelson Perdomo and Maria Gibbs, two of your members to the novel coronavirus. And so we remember them, and we remember all staff, Correctional Officers, and inmates alike, just as we do all New Jerseyans who we lost to COVID-19.

So we mourn them with you, Bill; I wanted to say that.

I also know that you've had hundreds test positive and over a thousand members quarantined in order to try to contain the virus.

In your written remarks -- and we appreciate that you provided those to the Committee -- I think at some point you mentioned that you've witnessed, and continue to witness, the failure of Rutgers Health. I take that from your comments. And you called them "underqualified in addressing contagious disease and treatment within a prison environment."

You've also talked about the Health Services Unit, and mentioned that, as a collective bargaining unit, you all were told to stay in your lane. I wondered what questions remain outstanding, and if you could expand upon that concern -- that's my first question.

I'll throw you both of my questions -- all three of my questions -- and you can take them in any order you want, Bill, if that's okay.

But I think it would be of interest to the Committee to hear you expand on that concern that you mentioned, in terms of our follow-up and the work that we're doing as a body, and that our Committees' staff are doing.

Because we're looking at systemic issues -- right? -- with combating the pandemic within our prison system and in the RCRPs.

And then the other is, if you can address information flow, right? A lot of the issues may have stemmed from the information not being disseminated out to the men and women in the field, in terms of your membership. And what could have been done differently? What can we do better, on a going-forward basis, so that when staff are reporting to work, taking the risks they do every day, and they may be infected, but they may be asymptomatic-- We were late; and we're doing a good job of testing now within the prisons, relative to other states when we're grading on a curve. But it was late, as we've heard. But that now -- that's how it's spreading within the prisons; that, and maybe the transfer of inmates.

So what could be done differently to ensure that there's sufficient time -- whether it's between 5th or what else -- in order to make sure the information flow is not being slowed down, is not being stymied, in order to protect everyone in our correctional system: COs, nurses, and inmates alike.

So you can tackle those two or three questions.

MR. SULLIVAN: Thank you.

I'm going to start off with the information flow.

I will say that the Commissioner and his staff have been very receptive to the union. We have two standing conference calls twice a week with the newly appointed Chief of Staff, where we can raise issues. And in between those, we're able to send e-mails and get responses.

The issue is with the daily changing of policies and implementation of policies -- the dissemination to the staff was lacking. In 2010 -- up until 2010, when an officer reported for duty, we had a lineup where everything that was going on in the prison system -- new policy updates -- was disseminated from a supervisor, and the staff would go about their day.

That included gang violence, what's happening in the world, any new policy updates; and that way you could also assure that all the officers signed for the policies that they were updated on, so that down the road they can't claim that they didn't know of these policies.

And around 2010, they eliminated what we call the *lineup* within the correction facility. So as it is now, all you do is report to your post upon your shift starting. There's very little communication; and we've been trying to fight for a number of years to get that lineup back. And that would help disseminate the information and get these policies out quicker.

I know the DOC has also just launched an alert system where people can sign up for e-mails; but you still have to be careful with the information you put out on those. So at our request, the Commissioner has been trying to think of ways that we can communicate with staff better, while we're waiting to see if we can somehow get some sort of overlap back for lineups.

Do you want me to--

ASSEMBLYMAN MUKHERJI: What's the period of time that would be appropriate, and what's the shift overlap right now?

MR. SULLIVAN: So, right now, the only post that receives a shift overlap is a person who has to exchange a firearm; and that's a 10-minute overlap. What I think would be appropriate is--

ASSEMBLYMAN MUKHERJI: Sorry.

MR. SULLIVAN: Yes?

ASSEMBLYMAN MUKHERJI: Stop for a second.

There's no other overlap right now?

MR. SULLIVAN: No. The only position in the Correctional Facilities that receive one is a weapon exchange.

ASSEMBLYMAN MUKHERJI: So you get -- so you have 10 minutes to exchange firearms, which makes sense. But not even 30 seconds to trade, or pass down the latest updates on what we're doing to combat a pandemic in the prison system.

MR. SULLIVAN: None.

So some facilities do still give GAs a sort of update, or have a supervisor walk around with a hot board. But there's no mechanism for the officer to report and get to their post on time at the start of the shift, without compensation.

ASSEMBLYMAN MUKHERJI: Would 10 minutes be sufficient?

MR. SULLIVAN: I would believe that you would need five minutes to do a security check for your vest or your equipment. You would need five minutes to disseminate information, and you would need five minutes to report to your post to talk to the individual who you're relieving so that they could pass on some information. I think 15 minutes would-- We would like a half-hour, but 15 minutes I think would be sufficient.

ASSEMBLYMAN MUKHERJI: Okay, go ahead; sorry.

Thank you.

MR. SULLIVAN: When I spoke about the health care, the union kind of had some issues with the way they were quarantining staff. They had a Health Service Unit in charge of quarantining staff that had contact with positive officers. And we didn't really like the fact that the Health Service Unit would call the officer that was positive and ask a simple question of,

“Who were you in contact with, within six feet for more than 10 minutes?” And you relied on that officer to give the information and the names of the people who they were in contact with. And often, people were left out.

So we, as a union, would provide additional names to the Health Service Unit, and I think they got a little agitated with us. We were trying to protect the staff in quarantine -- as many people as possible -- to help prevent the spread.

So that’s pretty much what the Health Service Unit -- we had an issue with.

And lastly, the infrastructures of some of our institutions -- they don’t have solid doors; they have bars on the doors. So a lot of movement had to go down south, to our newer prison in South Woods State Prison, so you can properly isolate the positive or symptomatic inmates. And moving the inmates wasn’t ideal, but it did help to stop the spread. Because dorm settings and open bar settings are not good to contain the virus.

So we do need some institutional upgrades in some of the older facilities to help mitigate a future pandemic or spread of any disease.

ASSEMBLYWOMAN SUMTER: Mr. Chairman, if I may?

ASSEMBLYMAN TALIAFERRO: Please.

ASSEMBLYWOMAN SUMTER: Thank you, President Sullivan; and thank you for the work that your folks do.

We also heard concerns -- and I didn’t hear you speak to this -- on what was your process for the use of PPE, and the directives given to staff, and the frequency of testing for your staff -- or for staff in Corrections, I should say.

MR. SULLIVAN: So, early on, the union had sent the letter to the Governor's Office and the New Jersey Department of Corrections requesting universal testing for the inmate population and officer population. It took a long time to get off the ground. And I'd like to note that our Cobra Unit -- which is an offspring of our SOG unit, which is Special Operations Group -- Rutgers pretty much told the Department they couldn't complete the testing, and our officers went out and completed the testing of the inmate population. So, to date, every staff member and inmate has been tested for COVID-19. And I'm being told that within the next-- They would like to do it weekly, and as often as possible, until the spread is gone. So now that the testing has taken off and our Correctional Police Officers have taken on that responsibility, it's been a quicker process.

Also, our Correctional Police Officers have taken over the temp scans at the entry points, and screening for COVID for the employees, because Rutgers also couldn't staff that either. So our officers have stepped up, big time, during this pandemic.

ASSEMBLYWOMAN SUMTER: Okay, thank you.

And one more question, Mr. Chairman.

Did you all change or update your policy for family contact via remote technology with their loved ones? Because that was another big gap, and we also heard that from the family members who shared their experience with us.

MR. SULLIVAN: So the institutions have what they call *JPay kiosks*; the video and audio recording have not been operational until this week. We have the technicians putting these machines together with an ability for the inmates to send 30-second videos back and forth to their family

members. And, of course, the machines are limited; and with the amount of inmates, it'll probably be -- as earlier was discussed about the JJC -- every other day, or as often as possible, depending on the availability of the kiosks.

So the Department has set those JPay machines -- operational for that purpose.

ASSEMBLYWOMAN SUMTER: Thank you.

ASSEMBLYMAN JOHNSON: Chairman.

ASSEMBLYMAN MUKHERJI: Please.

ASSEMBLYMAN JOHNSON: I have two questions.

When the Correctional Police Officer comes to work, and he or she should get a 15-minute briefing before they start their shift; that's what you said would be ideal? Well, not ideal, but acceptable?

MR. SULLIVAN: Yes, sir.

ASSEMBLYMAN JOHNSON: All right.

Prior to the change, was it 30 minutes or 15 minutes?

MR. SULLIVAN: I believe it was-- It was 2010; I believe it was a 30-minute overlap.

ASSEMBLYMAN JOHNSON: Okay; so if you take another 15--

Is there a cost attached to that, and that's why it went away?

MR. SULLIVAN: Yes, sir.

ASSEMBLYMAN JOHNSON: Okay, all right.

It seems to me that when a person comes to a facility, and they--
- Well, we would probably call it *lineup* in police work; the sergeant or lieutenant there addresses the individuals who are about to do their work -- the Correctional Police Officers for that shift -- and passes on the information;

and then that Correctional Police Officer then goes to his or her post. And at that time, they're provided with more information relative to the post they're working that may not be covered in that general lineup, correct?

MR. SULLIVAN: Correct. Like, I worked the Housing Unit for a long time, so I would be able to tell what kind of -- maybe an inmate had a bad day in court, maybe an inmate had a bad call with a family member.

ASSEMBLYMAN JOHNSON: Right, right.

MR. SULLIVAN: I would be able to relay that information to my partner of the day to watch out for that individual.

ASSEMBLYMAN JOHNSON: Right.

MR. SULLIVAN: Maybe someone who is agitated during the day, and maybe say, "Hey, just watch out; watch your back." And I would be able to pass that information along. Now it's kind of hard, because nobody wants to give free time.

ASSEMBLYMAN JOHNSON: Exactly.

MR. SULLIVAN: Some people do, but they don't all want to.

ASSEMBLYMAN JOHNSON: And through the Chair, one other question.

You referred to the 30-second videos. Do you have a cost for that, or how many units do you have -- video units do you have, and what does it cost for that service? Do you know offhand?

MR. SULLIVAN: I believe they said it was 80 cents; and I believe they were providing -- it was 80 cents or 30 cents, but it's almost the cost of a stamp. They briefed us, last week, on this new policy they were putting out. I believe it was 80 cents a video.

ASSEMBLYMAN JOHNSON: So it's either 30 or 80 cents per 30-second video.

MR. SULLIVAN: Yes, sir.

ASSEMBLYMAN JOHNSON: And the inmate pays for that?

MR. SULLIVAN: The family member or the inmate, through their-- They put money on their (indiscernible).

ASSEMBLYMAN JOHNSON: On the account; okay.

Thank you, Chair; I'm done.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblyman Johnson.

Any other members?

Assemblywoman Carter.

ASSEMBLYWOMAN CARTER: No, I'm good; I'm good. Thank you, though.

ASSEMBLYMAN MUKHERJI: Thank you.

Anyone else? (no response)

Okay, thank you.

MR. SULLIVAN: I apologize, Mr. Chair. Can I just make one more response?

ASSEMBLYMAN MUKHERJI: Yes.

MR. SULLIVAN: The union has taken further actions with that officer involved in Franklinville. And we will be putting union charges to have him removed from the union, based off an investigation, for bringing harm to the membership.

So that's just another avenue that the PBA will try to revoke the membership based off a hearing. But he's entitled to due process from his peers.

ASSEMBLYMAN MUKHERJI: Okay, thank you for sharing that, and thank you for your time and your candor in sharing your experience and your knowledge with us today. It's been helpful.

MR. SULLIVAN: Thank you very much; I appreciate it.

ASSEMBLYMAN TALIAFERRO: Thank you.

ASSEMBLYMAN MUKHERJI: And we will have Ashanti Jones -- please offer testimony on behalf of the New Jersey Institute for Social Justice; who will be followed by Retha Onitiri, also from the Institute for Social Justice.

A S H A N T I D. J O N E S: Hi, everyone.

Good afternoon, Chairman Mukherji and members of the Assembly. Thank you for allowing me this opportunity.

I'll be reading a written testimony.

My name is Ashanti Jones; I'm the Community Engagement Manager at the New Jersey Institute for Social Justice, established 20 years ago by Alan V. and Amy Lowenstein.

The Institute is a legal advocacy organization that seeks to ensure that urban residents live in a society that respects their humanity, provides equality of economic opportunity, empowers them to use their voice in the political process, and protects equal justice.

Thank you, again, for the opportunity to submit this testimony on behalf of my organization.

States across the country, including New Jersey, have taken steps to stop the spread of the COVID-19 virus: closing schools and businesses, canceling events, and shifting to supporting children in their homes and communities. However, no such actions have been taken to protect incarcerated youth.

As of yesterday, June 9, 2020, 28 youth and 36 staff members have tested positive for COVID-19 in New Jersey's youth facilities, according to the most recent numbers provided by the JJC. The State must take immediate action to protect these kids. The crowded conditions in many of these facilities make them breeding grounds for disease, and the youth who are confined to them may be more vulnerable to poor outcomes from COVID-19 due to higher rates of pre-existing health issues, such as diabetes and asthma.

Incarcerated youth in New Jersey are also unable to access their support networks, as youth prisons and residential community homes have canceled all visitation for youth.

In addition, New Jersey's youth justice system disproportionately incarcerates Black and Latina/Latino youth, meaning that outbreaks of COVID-19 in youth prisons and residential community homes are disproportionately harming youth of color.

Based on available Department of Justice data, New Jersey has the worst Black-to-white youth incarceration racial disparity rate in the nation, with a black child being 21 more times more likely to be detained or committed to a youth facility than a white child.

New Jersey also has the fourth-highest Latin-to-white youth incarceration racial disparity nationwide, with a Latino child being four times more likely to be detained or committed than a white child.

Many of these Black and brown youth are also likely being psychologically harmed, as they anxiously watch some of their friends placed in medical isolation and others quarantined off. Such harm only exacerbates the mental trauma that youths face while confined. Indeed, as the American Academy of Pediatrics recently stated in a policy statement, “Unmet physical and mental health needs continue to interfere with the optimal health and development of youth involved with the justice system.”

Assembly Bill 4235, which we’ve been talking about throughout this conversation already, introduced by Raj Mukherji and Assemblywoman Shavonda Sumter, is a good first step in protecting incarcerated youth during this crisis. This Bill creates a public health emergency credit that expedites the release of youth and adults who are due to complete their sentences within a year. The credits will reduce sentences, including minimum sentences, by six months for each month of the declared state of emergency, with the maximum sentence reduction of one year.

If this Bill was to pass without any additional carve-outs, it’s our understanding that a few dozen incarcerated youth could be released. This is an important first step, and we thank you, Chairman, for taking it.

However, with over 250 youth in State custody, we believe that the work is just beginning. And that’s why the Institute -- along with our partners at Salvation and Social Justice and the NAACP New Jersey State Conference -- is urging the State to take the following actions to prevent the further spread of COVID-19 in our State’s youth facilities.

To immediately halt all admissions to youth prisons and residential community homes; to release all youth who test positive for COVID-19, and provide them with the proper medical care; rapidly release all youth who can safely return home from youth prisons and residential community homes; and offer community-based services and supports to youth released or diverted from youth prisons and residential community homes.

New Jersey's youth in custody cannot be left behind during this pandemic. We urge the State to immediately act to protect all of our state's committed youth.

And lastly, the Institute would be remiss if we didn't speak on the needs of the immigrant detainees during this public health crisis. Many detainees are dealing with the same fear, uncertainty, and isolation that the incarcerated youth are dealing with, and therefore we urge the State to work with immigrant rights advocates to develop a policy and laws that will protect the health and safety of New Jersey's immigrant community at this time.

It's paramount that the Garden State act with compassion towards everyone who's incarcerated during this pandemic, especially those who are the most vulnerable -- our incarcerated youth.

Thank you.

ASSEMBLYMAN MUKHERJI: Thank you for your testimony, Ms. Jones.

I'll start with your last point; it's an important one, although not directly something in the State Department of Corrections purview.

When we're dealing with immigrant detainees -- who may be New Jerseyans just the same, and in this extremely high-risk situation in

terms of contracting the novel coronavirus in that setting-- And we've seen and heard some real horror stories. Unfortunately, a lot of that is outside of the purview of this Committee, and it's a Washington D.C. discussion, which leaves us feeling helpless.

But there are things that we're able to do at the State level, that we have done at the State level -- I want to just pick your brain for a moment -- to help immigrant detainees who may not have committed a crime, who are in that situation; and now their lives are in danger while they're in detention. One of the few ways that we can deal with that is to get them out of detention where they may not belong in the first place. Right to counsel, access to counsel and representation, is one of the most successful ways in which we're able to achieve that. We've seen a real difference in the likelihood, in terms of an unrepresented detainee and a represented detainee, of getting out of that situation; and now, with the pandemic, having your life no longer in danger.

At the State level, we have appropriated money for providing access to counsel for previously unrepresented immigrant detainees. Do you see that as one of the ways in which we could help that population, at least at the State level?

MS. JONES: I absolutely do. I believe that's also something that immigrants' rights organizations are advocating for anyway. And like you said, there is a huge difference in the release from detention with immigrants who may not have representation, versus those who do. So having that money allocated, but also the implementation of that and making sure that that's implemented, is important. I think that is a good step.

ASSEMBLYMAN MUKHERJI: Any questions from other Committee members?

ASSEMBLYWOMAN SUMTER: Mr. Chairman, I want to thank the Institute of Social Justice for being a partner with us in making sure that we have knowledge of what's happening in the juvenile detention centers, as well as corrections. So thank you for staying a partner, Ashanti.

MS. JONES: Absolutely; no problem.

And also I'd like to note that Retha Onitiri is not on the call today; so it was just me speaking on behalf of the Institute.

ASSEMBLYMAN TALIAFERRO: Thank you, Ashanti; we appreciate that.

ASSEMBLYMAN MUKHERJI: Thank you.

And now, if we can have your colleague -- is it Retha?

MS. JONES: Yes, Retha.

That's what I was saying -- she's not on the call.

ASSEMBLYMAN MUKHERJI: Oh, sorry; that is--

MS. JONES: It's just me representing from the Institute today.

ASSEMBLYMAN MUKHERJI: Fantastic. Well, you were certainly capable, so thank you for--

MS. JONES: Thank you.

ASSEMBLYMAN MUKHERJI: Thank you for sharing your thoughts; we really appreciate that.

And last, but most certainly not least -- and we're deeply appreciative of his presence and offering his thoughts here today -- is Mr. Robinson, on behalf of the NAACP State Conference and the Newark NAACP Criminal Justice Committee.

RICHARD H. ROBINSON: Good afternoon, again; and I'm sorry about the short notice but, President Richard T. Smith notified me 12 hours before this appearance.

So I want to thank Assemblyman and Chair Taliaferro, and the rest of your Committee members, regarding this appearance.

ASSEMBLYMAN TALIAFERRO: Thanks for being with us.

MR. ROBINSON: So I heard everything, and I don't want to be repetitive, as my good friend Reverend Boyer indicated. But there are a number of things that actually need to go forward.

I don't like to point fingers; and everything has been brought to the table, regarding a topic of discussion. So your Committee should be charged with a number of things, and let's take a close look at some of the things that actually have been discussed.

Executive Order 103 was a State of Emergency. It was a health emergency. So with that, it gives you the notion that something needs to be done immediately. Executive Order 124 has four different requirements regarding release of nonviolent individuals who are actively serving time.

So with that, there should have been a task force in place that could have actually coordinated the efforts regarding NJDOC on New Jersey State Parole Board, on Juvenile Justice; everybody who is an involved or concerned party regarding what we need to do to actually effectively address this pandemic.

Number one, there should have been a release of people who had nonviolent charges regarding nine months to a year. We have a state of emergency; people are dying. I cannot fathom why we are holding people in

a congested environment, affecting the lives of staff members and inmates, regarding this pandemic that resulted in a number of deaths.

Now, I contacted, this morning, the Federal Bureau of Prisons. And to be fair -- and this is what needs to be understood -- New Jersey, along with a lot of other states, were very late in trying to address this problem. So that's to be fair. But moving forward, we still need to get some things done. So consideration needs to be given for the first thing. Maybe there does need to be an effective task force to coordinate the efforts of those previously mentioned parties.

There needs to be, in my opinion, much more offered for the families of these individuals who are serving time, regarding communications. No person should actually suffer, like Ms. Ferguson, in any instance -- in any instance. Society -- we are charged to rehabilitate these people. You know, we're not really rehabilitating them if we're contacting loved ones and family members way after the situation has occurred. This results from better planning; and this also results from, as I mentioned previously, a task force that should have been implemented to actually coordinate the efforts of all the different parties concerned.

So the ACLU pretty much indicated that maybe we should have given consideration to three, four, five, months of release early. We should have seriously considered nine months to a year in order to get people out of those congested areas where they were infected.

I cannot imagine what Ms. Ferguson, or any of the other two ladies, were feeling regarding that situation.

So let's move forward. Let's try to do something -- as, again, my good friend Mr. Boyer indicated earlier -- immediately, like within the next

two weeks, because people's families are being affected. Not just inmates; we're talking about Corrections Officers as well -- their families as well.

I'll take any questions if you have any.

ASSEMBLYMAN MUKHERJI: Thank you so much.

ASSEMBLYMAN TALIAFERRO: I just want to say, also, to Mr. Robinson, I know we got you in short order over the last 24 hours here. So thank you so much for your time and efforts. I know Ricky Smith and yourself are really fighting the good fight on this one. And you know you have an ally in all of us on this call. So I appreciate your time and your comments today.

MR. ROBINSON: I really appreciate it as well.

Again, you guys and your Committee should be applauded.

And let me just say this. In regards to my call this morning to the Federal Bureau of Prisons, they pretty much indicated clearly that every state was late on this situation; every single state. So it would be wise for us to move forward and execute a State plan of action that's going to be effective; and pretty much give the public what they need pertaining to positive numbers.

ASSEMBLYMAN TALIAFERRO: Thank you, Rich.

MR. ROBINSON: My pleasure.

ASSEMBLYMAN TALIAFERRO: Any other questions or comments from any of our Committee members? (no response)

Seeing none, Chairman.

ASSEMBLYMAN MUKHERJI: Chair Taliaferro, do you want to -- do you have any parting thoughts?

ASSEMBLYMAN TALIAFERRO: Well, yes, from my angle I just want to, again, just want to reiterate my thanks to our Committee members and everyone -- all of our panelists who shared their stories.

Assemblywoman, Vice Chair.

ASSEMBLYWOMAN CHAPARRO: Not a question so much as to just, kind of, make a comment, if I may.

And then-- I'm sorry, then I'll let you--

So obviously there's a lot going on, and I'm glad that we did have this Committee to just, really, discuss a lot of important issues. And emotions are high on every issue. I mean, we've had so much going on; 2020 is really coming in like a storm we've never seen on many levels.

And, you know, I just want to kind of summarize a couple of things that you know we were already discussing, before COVID hit, the whole juvenile detention, reforming our youth, and people who are incarcerated -- how treatments-- And all kinds of stuff that we were discussing already. And, you know, sometimes the mentality is -- I'm sure that there's so many things that are going on, especially in communities of people of color, that we are-- Nothing is urgent enough. When someone is incarcerated, you know, sometimes people's mentality is, "Well, they did something; they are there for a reason." And you don't realize how small of a crime they committed, but it's still a crime. It could be a bad check, it could be no payment of child support, it can mean something that's not violent. But you're putting them in a population with other people who are there, with other crimes, so everyone's treated the same.

So when something is not right -- facilities that need new policies, or things need to change, you are not only putting inmates in jeopardy, but

also you're putting Correction Officers in jeopardy. And I can tell you that officers, we can all agree, that we have a lot of men and women in blue who do outstanding work and that we applaud them. And I'm sure they were sick to their stomach when they saw the things that are going on, because they also are in jeopardy because of what someone did. Their good work is now being questioned. And we can't keep putting everyone in the same pot because of people who are bad. Hate that's in someone's head and in their heart is always going to be there. But we can't shift hate; we have to just make sure we eliminate hate.

And a lot of things that are happening in the prisons, and the jails, and everything that was going on -- there wasn't a lot of clarity, so there wasn't any urgency. And I think rehabilitation is important. And when someone is in there for six months' time -- yes, we had something like this. They should have been released. They're not a danger to society. We need to really change things, going forward. As a mother of a young Black man, I think about things that, "What if he makes a mistake, a simple mistake? Does that mean his life doesn't matter? Is he condemned because he was picked up for something that -- he made a mistake that's not a danger to society, but just he's in the system?" Once you're in the system, we know how many stories we hear about young men and women who are incarcerated who either don't make it out -- and it's for other reasons.

We really have to think about this, because we're not doing a service to anyone; not to the community. We have to really think about how they got there, and how we're going to put them back into society and make a difference. Because everyone benefits; everyone. And we need to uplift them.

You know, I think about the men and women who are now in jail for, maybe, something that's minor. And when I'm watching Netflix with the Jeffrey Epstein story and I think about, "My God, how was this monster able to walk the streets and travel the world," yet here we have some men and women who maybe did a fraud check or whatever -- something minor. I'm not talking about murder, I'm not talking about rapists, I'm not talking about those things. I'm talking about something that's nonviolent.

And we really, really need to think about this, because it benefits everyone in society no matter which way -- where you come from. It just really benefits everyone if we really think about when someone is in there, how we are going to move forward to make things right -- to make sure that everyone, as a whole, is okay.

And, you know, we put a lot of policies for officers, and we have to think about that. That's a lot of training; we can't put them on overload. They're human, too. What we really-- Like I said, we have to make sure that -- maybe we have to do psychological evaluations more, because it is a stressful job. We need to make sure that their heads and their hearts are in the right place. You can complete training; you can get all the certifications you want; but if you have hate in your heart and in your head, that training went out the window. You didn't learn anything. You don't need to know about cultural differences; you need to know how to accept people, and understand things, and do the right thing. And there are a lot of men and women in blue who do the right thing, but there are those who don't. And they're the ones who we have to make sure that we take out.

So I just really want to make (indiscernible) we hear. There was a lot of good testimony today. I wanted to make sure that we balance it right;

it's a hard job that falls on our shoulders. As a mother, I feel more than as a legislator, but we do have to balance everything out and make sure that, going forward, what was done wrong this time, we make sure that we don't just talk about; that we make sure that we correct it, and really try to make some changes across the aisle, with both, you know, Republicans and Democrats together. We all have to do this right and make sure that our constituents all benefit. And I think this is a good start.

So thank you; I thank everyone who was here.

ASSEMBLYMAN TALIAFERRO: Thank you, Vice Chair.

And again, I just wanted to thank everyone for their time. And specifically, Ms. Holmes, Ms. Ferguson, Ms. Selph -- your stories will resonate with me for the foreseeable future.

And as Chairman Mukherji said, we want to do whatever we can to help you get that information that you deserve. And we will continue to work on that.

So I'll stop there, and defer to my fellow Chairman, and thank him for his leadership and guidance throughout this Committee.

And we'll let you have the parting words.

ASSEMBLYMAN MUKHERJI: Sure.

So I really want to thank you, and your Committee, for joining us, and for your efforts.

I think both of our Committees -- our work has just begun. I think I leave here today with probably more questions than answers, which underscores the fact that our work has just begun.

I just want to thank all of the witnesses who came forward, and dedicated their time and shared their thoughts with us candidly.

Ms. Ferguson, we have some homework. It won't make up for what you're going through, but we will follow up with you.

And I do want to-- Governing in the age of COVID-19 and policy making is not easy technologically, logistically; and a lot of work, a lot of thought, a lot of research has gone into today's proceedings, and the work that our Committees will jointly undertake further to today's meeting.

So I just want to take a moment to thank, from the Assembly Majority Office, Mark Iaconelli and Shannon Natale for their incredible hard work. My own staff, Kenny MacPherson, and Brooke and Jay; and yours, Chairman Taliaferro. And Miriam and the nonpartisan staff at OLS -- thanks for all that you did, and are doing, and will continue to do as we look into these questions -- these difficult questions that need to be asked, because our Correctional staff, our public servants, and our inmates all deserve better than, I think, what we saw unfold over the past couple of months.

So wishing everybody continued health and safety, I think that we will be signing off.

(MEETING CONCLUDED)