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STATE OF NEVADA
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NEVADA SENTENCING COMMISSION

MINUTES-ADOPTED

Date and Time: June 24, 2020, 9:00 AM

Location: VIRTUAL

MEMBERS PRESENT

John Arrascada
Christine Jones Brady
Chuck Callaway – Vice Chair
Chief Anne Carpenter
Director Charles Daniels
Chairman Christopher DeRicco
Justice James Hardesty - Chair
Chris Hicks
Darin Imlay
Keith Logan
Russell Marsh
John McCormick
Dr. Emily Salisbury
Judge Michael Villani
Assemblywoman Rochelle Nguyen
Senator Nicole Cannizzaro
Senator Keith Pickard

MEMBERS EXCUSED

Judge Scott Freeman
Kimberly Mull
Dr. Elizabeth Neighbors
Jon Ponder
Assemblyman John Hambrick

STAFF

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

1. Call to Order / Roll Call

Chair James Hardesty: Good morning everybody. Welcome to this virtual meeting of the Nevada Sentencing Commission (Sentencing Commission or Commission). I want to express my sincere appreciation for everyone making themselves available. As you will see when we get into the meeting and subject matter, I thought it was critical that we have an initial meeting to talk about the formula for the projected amount of costs avoided and the report that is due on August 1. And I thought it was impossible to be able to have a thorough discussion on this subject and arrive at some competent suggestions and a competent report if we met on July 29 only. We are going to focus this meeting strictly on that subject. And focus our attention solely on this so that we can give the staff of the Department of Sentencing Policy (Department) some direction on how to proceed with the report that we hopefully will be able to review on July 29.

Please remember to state your name each time you speak so that we can record who is speaking. It is especially helpful in the virtual format and it assists our staff in being able to transcribe the minutes.

I want to express a sincere appreciation to Jason Rickman of the Supreme Court's IT Department and to our Executive Director, Victoria Gonzalez. Last night there was serious doubt as to whether we would have been able to proceed with this meeting from an IT standpoint. There has been a serious separation problem in our system with EITS. So, through an amalgamation of processes and laptops and wires and some really skilled IT people we are able to pull this meeting off. You will notice this laptop here at the front of our desk here in Carson City in the library of the Nevada Supreme Court. That is being used to record the video of our meeting and stream it to the public through the Department's website. We would not have been able to do so without Jason and Victoria's competence, skill, and innovation. I want to thank them for that.

ROLL CALL

2. Public Comment

Chair Hardesty: There are two periods of public comment. One at the beginning of the meeting and one at the end. I think we have about seven or eight submissions for public comment. As a reminder to the Commission and to the public, on March 22, 2020, the Governor issued Emergency Directive 006, in response to the COVID-19 Crisis. The Emergency Directive suspended certain requirements of the Open Meeting Law. The manner in which public comment was handled at the meeting on April 29, 2020, will be handled similarly today and is the result of staff working with the Attorney General's Office to ensure that this public body is in compliance with the Open Meeting Law and the Emergency Directive.

Staff has emailed the public comment that has been received up until this point for this meeting. I will now pause so that the Commission can review the public comment that has been submitted. While the Commission is reading through those submissions, staff will provide a sign to communicate to the public that public comment is being read silently. The purpose of the sign is also to communicate to the public which items are being reviewed by the Commission. Within 2 business days, staff will post the public comment on the Department's website.

I will reconvene the meeting in several minutes when we are satisfied that the Commission has reviewed the public comment and then I will close this agenda item and we will proceed with the meeting.

MEMBERS OF THE NEVADA SENTENCING COMMISSION SILENTLY READ PUBLIC COMMENT SUBMITTED BY STEVEN MOORE, SHARON WILLIAMS, MARK BETTENCOURT, CYAN LARSON, JEFFREY WANG, MORGAN BARNEY AND Z LONG.

3. Approval of Minutes from the April 13, 2020 meeting and the April 29, 2020 meeting

Chair Hardesty: I will now open the next agenda item, approval of the minutes from the April 13, 2020 meeting. Are there any edits or corrections to those minutes? Hearing none, I will entertain a motion to approve those minutes.

SENATOR KEITH PICKARD MOVED TO APPROVE THE MINUTES FROM THE APRIL 13, 2020 MEETING.

CHAIRMAN CHRISTOPHER DERICCO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Hardesty: We will now move on to the approval of the minutes from the April 29, 2020 meeting. Are there any edits or corrections to those minutes? Hearing none, I will entertain a motion to approve those minutes.

SENATOR KEITH PICKARD MOVED TO APPROVE THE MINUTES FROM THE APRIL 13, 2020 MEETING.

DR. EMILY SALISBURY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Hardesty: Before I open the next agenda item, particularly for the benefit of those who submitted public comment and for the members of the Sentencing Commission who may not know, the Nevada Board of Pardons (Pardons Board) met on June 17, 2020. Among other activities, one of the agenda items considered by the Pardons Board was the letter submitted with the recommendation of the Sentencing Commission concerning how to handle the potential early release of certain individuals in response to the COVID-19 Crisis. At that meeting, the Nevada Department of Corrections (NDOC) also provided an update on testing and certain results of testing. I realize we didn't notify you in advance Director Daniels, but if you don't mind, for the benefit of the public and the Commission, could you approximate the number of those who have been tested because it was fairly substantial? And could you also provide the number of inmate cases, which is fairly minor?

Director Charles Daniels: Good morning. As of this date, we have tested 10,329 inmates out of a total of 12,368 inmates which equates to roughly 83%. Of that, we have had nine inmates test positive, or 0.08% which is less than 1% of all inmates. That is as of this morning.

Chair Hardesty: Thank you, Director. I appreciate that update. I would like to add to my report to the Commission, that the Pardons Board made a request of Director Daniels, Chairman DeRicco, and Chief Ann Carpenter, to determine if there were inmates who might fit into the general category of people described in the statute that goes into effect July 1, 2020. And if needed, for purposes of COVID-19, Centers for Disease Control (CDC) compliance requirements, those names be submitted to the Pardons Board for consideration of some potential early release. So that process has commenced. I am not sure how many that might involve. But that information was requested by the Governor as well as the Pardons Board. I am sure that the Director, Chairman and Chief are looking at that issue, as necessary.

4. Presentation on the Projected Amount of Costs Avoided Report

Chair Hardesty: I will now open agenda item number four. As you will recall from our meeting on April 29, 2020, Director Gonzalez provided an overview of the Projected Amount of Costs Avoided Report. We had so many other things going on in that meeting that I don't think we really gave this particular subject, which is pretty important from a statutory standpoint, the time that was needed.

As you know, on or before August first of each even-numbered year, the Commission is required to prepare a report for the Governor and the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature. I have asked Director Gonzalez to provide an overview of the calculation of the Projected Amount of Costs Avoided and an update on the status of the report. The Criminal Justice Institute (CJI) is supporting the Commission in developing the report and Barbara Pierce is available here today to participate in our discussion. I will now invite Director Gonzalez and Ms. Pierce to begin their presentation.

Executive Director Victoria Gonzalez: Thank you Justice Hardesty. I will direct your attention to the meeting materials. The slides of my PowerPoint Presentation have been included so that you can follow along. I have also included copies of the statutes, the inmate population projection reports from JFA which have been relied on as well, and the Legislatively Approved Cost Per Inmate from the last legislative session. I will either be referring to all of these documents or we relied on these materials in preparing the information in the report.

NRS 176.01347 as enacted in AB 236, provides the statutory requirements concerning Costs Avoided. The statute mandates that the Commission produce two deliverables. The first is called the Statement of the Amount of Costs Avoided which is in subsections 1 and 2 of NRS 176.01347. This Statement of Amount of Costs Avoided is due December 1 of each fiscal year. For those of you referring to the copy of the statute included with your materials, I have highlighted important terms and dates concerning that statement in yellow. The second deliverable required by NRS 176.01347 is the Projected Amount of Costs Avoided Report. That is mandated in subsections 3 and 4 of the statute. That report is due August 1 of each even-numbered year. Important terms and dates concerning that report are highlighted in pink in your copy of the statute.

First, I will briefly explain the Statement of Costs Avoided which is due December 1. Because the Projected Amount of Costs Avoided is due on August 1 that will be the primary focus of our discussion today. The next slide provides information about the Statement of Costs Avoided.

The statute mandates that the Commission will adopt a formula to calculate amount of costs avoided. The statute requires that the formula must include two things. The first thing is a comparison of the inmate projections created by the Office of Finance pursuant to NRS 176.0129 and the actual number of persons who are in a facility or institution of Nevada Department of Corrections (NDOC) at the time of the report. We will talk about that more at a future meeting. I recommend that this Commission address the Statement of the Amount of Costs Avoided at the October meeting. Because the other report is due first. However, an understanding of the Statement of the Amount of Costs Avoided provides a foundation for how this Commission will approach the Projected Amount of Costs Avoided. I also want to mention that I am in regular communication with NDOC to make sure that we are on the same page with projections and actual inmate populations. We communicate monthly, and as of our most recent meeting, May 1, the outcount population is 12,406 and the in-house population is 11,937.

Next, I will explain how the inmate projections work. The statute provides that this Commission will rely on the projections required by the Governor's Finance Office (GFO) pursuant to NRS 176.0129. What that requires is the GFO contract for these inmate projections. Currently, that contract is with JFA. And that contract requires three inmate projections per year. I would also like to point out that NRS 176.0139 requires the GFO to provide this Commission with inmate projections pursuant to NRS 176.0129 upon request. That will help facilitate this report. But this Commission can request those projections at any time.

I will now refer to the report we are discussing today. But I will be referring back to the Statement of the Amount of Costs Avoided. We are here today to discuss the Projected Amount of Costs Avoided. This report is required by statute. The statutory requirements are these three things. The report is due August 1 of each even-numbered year. There are no statutory requirements regarding the formula for the projected amount of costs avoided. And there are statutorily required recommendations for investment. I will discuss these in more detail later in my presentation. But these are the three statutory requirements we need to keep in mind for this report.

As you recall, the Advisory Commission on the Administration of Justice (ACAJ), initiated the Justice Reinvestment Initiative in 2018. This led to the enactment of AB 236 during the 2019 Legislative Session. The goals of the reforms in AB 236 include slowing the growth of the prison population, identifying savings realized due to the slowed growth, and then reinvesting those savings into programs and agencies to continue to slow the growth. We refer to those savings as costs avoided. In 2018, the ACAJ identified potential costs avoided if certain reforms were adopted, which they were in AB 236. In consultation with CJI, we reviewed the methodology used in 2018 to inform the methodology to be used by this Commission for the Projected Amount of Costs Avoided. What I will do next is review components of the methodology from 2018 to help this Commission decide how it would like to move forward with the methodology for this report.

In 2018, that methodology included the August 2018 inmate projections required pursuant to NRS 176.0129. So that will be the JFA projections. I provided the August 2018 report with your materials as a reference. In 2018, the methodology also included a variable cost per prisoner in order to determine costs that would be avoided. These variable costs include things such as medical costs, institution costs, remote camps, non-remote camps, and transitional housing. You can see the correlating amounts to those from the Legislatively Approved Costs from the previous session. We will be using a

similar methodology as we moved forward.

In collaboration with CJI and keeping in mind the methodology from 2018, we have put together a proposed methodology to calculate the projected amount of costs avoided for the 2020 report. What I have on this slide, on the left side, is the amount of costs avoided formula. Which includes the 2018 projections as required by the NRS 176.0129 and the actual number of persons in an institution or facility.

I would like to preface this proposed methodology with the goals I had in mind. I want to assist this Commission in providing reliable and sustainable recommendations. This methodology was developed with what will be reliable and sustainable over time. As I mentioned before, the statute does not mandate what the methodology should be for the projected amount of costs avoided. But the context of the costs avoided can be used as a basis. My proposal is that because “projected” modifies the term “costs avoided” as defined in the statute. The term “costs avoided” is defined within the context of the statute with the two required items on the left. I propose the projected amount of costs avoided modify the term that is already established within the statute, costs avoided, and that we can keep building on that to develop the projected amount of costs avoided. So, in consultation with CJI, I propose that the Commission use the formula for the costs avoided as a basis for identifying the methodology for the projected amount of costs avoided. This is would mean, if you look at the right side of the slide, using the 2018 inmate projections, look at the most current inmate projections, take the difference between the 2018 and the current projections and then multiply that by a variable cost per prisoner.

My proposal for the variable cost per prisoner would be to use the most recent Legislatively Approved Operating Cost Per Inmate by Institution. This would be sustainable because it is public information to access that from the previous legislative session, it would be reliable because we would always be able to go back to the same type of calculations, instead of trying to come up with our own calculations each time. I think we should use a similar approach with these variable costs. It would include medical, institutions, remote camps, non-remote camps, and transitional housing.

The next is another way to look at this methodology. So we would take fiscal year 2022 and fiscal year 2023 inmate projections from 2018, subtract the fiscal year 2022 and fiscal year 2023 projections from the current JFA projections which is from the February 2020 report, which I have included in your materials, and then multiply that by the variable cost per prisoner.

So, if we do that, here are the calculations we would have of projected costs avoided based on the projections we have been provided by JFA. You can see what the projections were in 2018. For the reports from JFA, they do a ten-year projection of what they think the inmate population is going to do over time. And so, we would take what they projected in 2018 would happen in 2022 and 2023 and then we take what they predicted in 2020 will happen in 2022 and 2023.

What you will note is that there has been a dramatic decrease in the population. In the JFA report, they identified possible explanations for this. One of the things that they identified in the February 2020 report is a decrease in intakes. They also noted that there were increased releases to parole. And what is important to note is that the most recent report from JFA took into account the enactment of AB 236. With these 2022 and 2023 projections there is an account for what those reforms from AB 236 might look like. We will know more as we track this over time and get regular projections from JFA. But that

is where they are starting from and they have explained their methodology in their report, and they have identified exactly which reforms they have applied to their calculations that they can use and then model.

What I will also note is that JFA has identified in their most current projections what they call the baseline and the worst-case scenario. What that means is, because there was such a dramatic decrease in intakes, they aren't sure if this is a trend or if there will be a surge and the intakes will dramatically increase. The Baseline assumes the trend will continue based on the decreased intakes. The worst-case scenario assumes there will be a dramatic surge and the intakes will increase.

Then we can see the amounts down here would be based on the variable cost per prisoner which I have identified from the Legislatively Approved Cost Per Inmate. With the help of CJI, that has been multiplied by the difference. These would be the totals that would be identified as the projected amount of costs avoided. Something like this could be put in the report with as much detail as the Commission wants.

At this point, I would be happy to answer any questions that the Commission has.

Senator Keith Pickard: Going back to that last slide. I understand the theory behind the worst-case scenario versus the expected projections but there was no difference. Does that mean that they have hit the nail on the head and that there is no chance of a worst-case deviating from the expectation?

Director Gonzalez: The first line is the 2018 JFA report. In 2018, they did not have a baseline and worst-case scenario. It was only in the 2020 report that they identified the potential for a baseline and worst-case scenario because of the dramatic decrease in intakes. The reason that there isn't a change in that first line, in the baseline and worst-case is because they didn't have that scenario in 2018. We wanted to make sure that the chart was complete. For the 2020 line you can see those are the most recent projections, and they have identified the baseline and the worst-case scenario. Does that make sense Senator?

Senator Pickard: Yes. I can see that in the numbers, but I am looking at costs and the projections and I notice there is a substantial bottom line difference.

Chair Hardesty: Victoria, why don't you explain what the bottom line means and how it was calculated. We didn't quite talk about that computation.

Director Gonzalez: Of course, Justice Hardesty. That bottom line is based on the formula I presented. We took the difference between the projections from 2020 and 2018. So that means, the difference if we look at would be the third line, would be 1,392 and if we work our way down the chart, what we identify from the legislatively approved operating costs and include the medical costs and the different housing costs and institution costs. We took that amount and then multiplied that by the 1,392 and that is how we get the calculation at the bottom of \$28,914,832.80.

Chair Hardesty: So that number is what we would be communicating as a projected amount of costs avoided using this methodology for the Legislature to use for their consideration. I realize this may be modified as we get into the December 1 report, but this would be the communication to the Legislature for the evaluation of this situation in 2021.

Director Gonzalez: That is correct Chair Hardesty. So, what we would do for the report is identify the amount and then what we will discuss later are the statutorily required recommendations. So we have identified this potential savings not only because of the enactment of AB 236 but also because changes in the State in general and recommend that these savings be reinvested in programs and agencies to continue to reduce recidivism and slow the growth of the prison population. We would identify that in the report after we have identified the amount and the methodology of how we got here. Then the Commission would identify what possible reinvestment can be done with the costs that were avoided.

Chair Hardesty: Under agenda items 4C and 4D, the 2018 report from JFA Associates as well as the projections for 2020 are set out along with their discussion. And I realize that this was disseminated to the Commission yesterday or the day before so understandably people may not have had a chance to spend a lot of time with these reports. But they are a critical component to our discussion. I think people will want to spend more time with looking at assumptions that were employed by JFA in the 2020 report and in reference to the enactment of AB 236. I know that some would point to other factors which are also mentioned in the report as contributing to the decline in the prison population.

The reason that I call this to your attention, especially since you may not have had a lot of time to address this, if any of the members of the Commission have questions or suggestions or would like to get further information about these two reports please communicate that in an email to the Director and she shall do her best to get back to you to respond to your inquiry or your question. This information and these assumptions are going to be documented in our report to the Legislature and the Governor that is due on the first of August.

Were there any other questions of the Director about the methodology or the presentation?

Chief Anne Carpenter: Looking at the calculations, when we are looking at costs avoided and trying to possibly reinvest that money in the future, are we looking at possibly shutting down parts of NDOC, to realize that cost savings, or are just simply looking at the cost per inmate and getting them released?

Director Gonzalez: Each biennium NDOC uses these projections to build their budget. And not being there when the statute was drafted and designed, I would speculate that the intent was to rely on the budget building of NDOC, to determine how they were evaluating their own costs. We are looking at the projections that NDOC relies on as well, for their budget building. And then trying to identify impacts or policy changes based on those projections and then tracking what budget building may or may not be going on at NDOC.

Additionally, relying on the costs such as medical, institutions, and the remote camps, those are costs that change with inmates. We did not choose costs that would affect the actual facilities. I don't know how those costs would affect NDOC as those costs change, but by relying on costs that NDOC is already using, those costs are tied specifically to inmate changes. I could consult with NDOC, but I wouldn't be able to speak to how does that trickle down and affect institutions but is exactly why those costs were chosen. Because it is specific to inmate changes and not necessarily to facilities.

Dr. Emily Salisbury: Going back to slide 7 of the presentation, it indicates that in order to calculate the costs avoided, that you are proposing that we would use the actual numbers of persons in a facility or institution. Of course, knowing that that actual number and population of inmates and of incarcerated

people changes quite dramatically over time, I am wondering do you know what kind of methodology they used? Are they using something like an average since that average fluctuates over time? Do they even use an average? On a certain date, this is the actual number of people who are incarcerated? I will have questions about that moving forward. I understand that you may not be able to answer that today. But that is a major question that I have.

And then, one other question that I would like to mention, are the projected amount of costs avoided methodology in terms of the different, on slide 6, the variable costs per prisoner. Are we wedded to only those costs? Or is there an ability to have a discussion about additional costs that might be avoided?

Director Gonzalez: To answer your first question on slide 7 and the actual number of inmates. That methodology will be addressed in October. So that methodology is specific to the costs avoided. The question you bring up is exactly the type of discussion that I would expect from the Commission to decide what formula you would like to adopt. Because the statute specifically requires the Commission to adopt a formula for the costs avoided. The formula must include these things but then ultimately the formula that this Commission adopts would be up to this Commission as long as it has those statutory requirements. I would recommend this be discussed when we get to that formula because for the projected amount of costs avoided, we are not looking at actual inmate numbers today. I provided those today as a snapshot to one, illustrate that I am communicating with NDOC regularly, and second, that's the kind of thing we would be looking at as a starting point for the discussion for the formula.

To your second question about which variable costs to include, for the methodology. As I mentioned, this is a proposal, and so it can be for this Commission to decide. But I can explain, my rationale for choosing those costs is because they were tied specifically to inmate changes. And they are sustainable in that I can always go and look up the legislatively approved costs and operation costs. And that will help provide reliability and sustainability in the future so some day if I am not here or whoever I am working with isn't here, that they could recreate the methodology instead of having to recreate some other calculations. That is the only thing I would advise, is that whatever the Commission does choose to add or take away from this methodology, to promote the sustainability of these reforms that that methodology be reliable and sustainable data that anyone can access and recreate this methodology no matter what.

Director Charles Daniels: I have a couple of thoughts I would like to put out there. I appreciate the work that has been done and I recognize that the process will be streamlined even further as we are talking about costs avoided. However, there is a couple of things that I don't see here, and I only had a moment to go through the documents. I think of a much larger consideration. We have to look at how many facilities I have and then how many camps I have. Those have a higher impact than just counting for each individual inmate and whether or not the population adjusts upward or downward. And also look at how the staffing impacts us as it relates to either overcrowding the housing units or taking the units offline. Those are significant considerations which I think would actually override even the considerations we have as we are talking about each individual inmate and the population. I would like to be part of that conversation, that information is relevant, and I was troubled by just using an inmate population trajectory as a primary calculus for our ability to save money.

Director Gonzalez: Thank you Director. That is exactly the type of information that I appreciate

hearing. I am very new to this as well and I appreciate the insight that each member of the Commission has which is why the Commission is composed the way it is. It is easy for a lot of us to be in different places and look at a black and white report and think we can understand or make calculations. That is exactly why I appreciate that input and that is exactly what this Commission can consider as the Commission decides how it would like to move forward.

Chair Hardesty: I would like to pose a question to you Director Daniels on the point that you raise. Going back to slide 9 where the calculations are and, is it possible to separate the projections out between those that are in your camps and those that are in your institutions? And having done that, separate costs for each? I think the point you make is a valid one and takes into account the physical structures and the physical presence of where people are being housed?

Director Daniels: You would like me to break it down by individual facility? And if that is your question, yes. I think that would be appropriate. What would also be beneficial would be to take a look at if I had the ability to either close sections of a facility or close a facility that would have a much more substantial impact on cost per inmate. Those variables are substantial because it would have an impact on the amount of staff that I would have to either release to perform other duties and/or minimize or greatly reduce overtime costs. Because we are spread very thin.

I think the essence of your question is right on and I can certainly provide you with some data that would be indicative of what the changes are and what the impact would be if we are looking at staffing and individual [inaudible] of operation.

Chair Hardesty: I would assume if we went by institution and by camp, the variable costs we are using would change depending on which institution or which camp we were focused on.

Director Daniels: The response to that is absolutely. Obviously, it costs a lot more to run a maximum or high security than it would to run a medium or low security. So, yes. That would matter.

Chair Hardesty: As I thought about this methodology and this report and I am glad you interjected your question and your suggestion. The more I thought about this is that it seemed like we might skew the savings inappropriately by not taking into consideration those differences. For example, the Ely facility is a fairly consistent, straightforward cost and population. Where the camps and some of the others are going to fluctuate. I think we need to be careful suggesting that there is a significant cost savings out of, for example Ely, where I doubt that would be necessarily the case. I think if Commission members are amenable, I would like to encourage the Director and his staff to work with Director Gonzalez and CJI to modify this and be more specific with respect to the institutions and the variable costs associated with each institution.

Any other questions for either Director Daniels or Director Gonzalez with respect to this methodology?

We are not going to take a vote on this. People need to think about these matters. And offer additional input. But for the Director to consider with respect to the formulation of the report for July.

We do need to have a cutoff date. Keep thinking about this, and ruminating about it, but we need your input no later than the second week of July for us to be able to get our draft ready for people to take a look at.

And Director, if you and your staff could communicate with Director Gonzalez as soon as possible with regards to our conversation that would really help.

Director Daniels: Absolutely. We would be very happy to meet with Director Gonzalez.

Christine Jones Brady: Can we get another copy of the presentation that is just the presentation slides so that I can share that with the members of the AG's office? As opposed to the entire PDF document.

Director Gonzalez: Yes. And I will email it to all the members of the Commission after the meeting.

Chair Hardesty: No Ms. Brady. I think you should make those AGs look at the whole thing. [Laughs] Don't let them do piecemeal. "You want to read it? You got to read the whole thing!" Ok. We will get it to you.

Chair Hardesty: Because these numbers were placed on the screen – these are hypotheticals. These are calculations. And they require additional adjustments. I don't want anyone to think that we are about to have a sixty-million-dollar savings over the course of the biennium. That is not the case. That is something that is just a work in progress. I don't want people to have an inappropriate takeaway from discussing hypothetical calculations.

Seeing no more questions. Let us move on to the item concerning the statutory recommendations related to recommendations.

Director Gonzalez: To that end of what Justice Hardesty was referring to – that we are identifying some savings and then putting that into context. That is the next component of what I wanted to mention in the statute that is required for the report.

There is a guiding principle to the recommendations and the report. This is provided in statute. That states "provide financial support to programs and services that address the behavioral health needs of persons involved in the criminal justice system in order to reduce recidivism." Whatever amount that is identified, it is not really about the number it is about seeing changes in our criminal justice system. And with certain policies in mind look at the financial impact of those changes and reinvest them.

The statute provides specific recommendations for this Commission to consider. And I have broken them down on this slide. The recommendations first include reinvesting into NDOC programs such as program for reentry, vocational training and employment, educational programs, and transitional work programs. The statute also requires the Commission recommend reinvestment into the Division of Parole and Probation, specifically for services for reentry and scientifically proven programs which reduce recidivism. The next required recommendation is reinvestment into behavioral field response grant programs developed and implemented pursuant to NRS 289.675. Those are the programs that are established by the Commission on Police Officer Standards and Training (POST) which we have heard about from Director Sherlock. And I believe part of his request for subawards is to help establish this program. The recommendation here would be reinvestment into those programs. The other recommendation is to the housing division in order to create or provide transitional housing.

And the last required recommendation is to the Nevada Local Justice Reinvestment Coordinating

Council created by NRS 176.014 for the purpose of making grants to counties for programs and treatment that reduce recidivism. As this Commission may recall, that Coordinating Council is housed within this Commission. And it is incumbent upon me to get that Coordinating Council up and going. That progress has been hindered with the pandemic. I am hoping to make a little more progress by the next time we meet and provide an update at our July meeting. Reinvestment is recommended to be provided to that Coordinating Council to help local counties. The purpose of that Coordinating Council is to provide support and feedback from every county in the State.

Next, I will present to this Commission a proposed outline of the report. Generally, this will be how we organize this information. A lot of it will be what we talked about today but in a report form. I have identified five possible sections for the report. The first would be a background section where I provide a history of how we got here. That would be what ACAJ did in 2018. Specifically, identify the methodology that was used in 2018 as we wanted to inform the Commission moving forward. I would also identify the goals of Justice Reinvestment which are to strengthen responses to behavioral health needs of offenders, focus prison resources on serious and violent offenders, improve efficiency and effectiveness of community supervision, minimize barriers to successful reentry, and ensure sustainability of criminal justice reforms. This report would further or advance goal number five which is to ensure sustainability of the reforms.

The second section would identify the statutory requirements as I did for this Commission today. I would include a section to explain the JFA projections, specifically because they are required for the costs avoided and we are relying on those projections. They were also used in 2018. I would go into whatever the Commission decides for the variable cost per prisoner and explain that methodology and the costs that have been chosen to calculate and include. And then also include in the report the approved methodology that this Commission decides.

The third section would include the calculations of the amount of costs avoided. The foundation would be the chart that I provided in the presentation today where the calculations would be identified. This would include the baseline and worst-case scenario because we relied on JFA inmate projections. And then I would provide the JFA contexts for the decreases and any other contexts this Commission approves to be included in the report.

The fourth section would be the statutorily required recommendations as I just identified on the previous slide. So, I would identify that guiding principle of reducing recidivism and then I would identify the priorities for this Commission that I just discussed and whatever the Commission decides to do with those priorities.

The fifth section would be an appendix. And I propose that we include copies of the relevant statutes, copies of the JFA projections, and the legislatively approved cost per prisoner or any other data that this Commission relies on to build its methodology. This could promote sustainability and reliability for the data and could be continued in the future.

At this time, I would be happy to answer any questions.

Chair Hardesty: Unless there are any questions or concerns, I will entertain a motion approving the outline of the report so that the Director can rely on this as she has much to do over the course of the

next month. Unless there are additional subsections or things you would like taken out or added I would like to give her that authorization from the Commission as a whole.

SHERIFF KEITH LOGAN MOVED TO APPROVE THE PROPOSED OUTLINE OF THE REPORT.

ASSEMBLYWOMAN ROCHELLE NGUYEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Hardesty: Thank you Director and thank you to the Commission. I have the good fortune of working with Ms. Gonzalez, we get weekly updates on the work of her staff. And I can't begin to thank her and Ms. Glick enough for their work and as you can see a lot of time has been spent preparing for the obligations that the statute has imposed on the Commission.

5. Update on Requests for Subawards

Chair Hardesty: We will now move to the next agenda item. I would like to ask Ms. Strait if she is available or Barbara to give a quick update on the status of the Bureau of Justice Assistance (BJA) review of our subaward applications.

Abigail Strait: Thank you Justice Hardesty. As Justice Hardesty said I have a quick update for the Commission on the subaward funding application to the Bureau of Justice Assistance. As a reminder the BJA provides an opportunity for states that have recently passed Justice Reinvestment legislation to apply for funds to support implementation of the policies. Through BJA, any agency involved in implementing AB 236 is eligible to apply for subaward funding and agencies can use these funds to help offset initial implementation costs and support sustainability.

As we mentioned previously, BJA made a total of \$428,000 in subaward funding available to Nevada. And at the last meeting of the Sentencing Commission, the Commission reviewed applications from agencies for these funds. As a reminder, on slide 2 of my presentation are the funds the Sentencing Commission approved to be included in the subaward application to BJA. To review quickly, the Department of Corrections requested funds for two positions, Parole and Probation for training and for assessment tracking enhancements, and the Commission on POST requested funds for a training specialist position.

One quick note about this the original request from Parole and Probation (P&P) for enhancements to risk assessment tracking was for \$39,142.84. This figure was based on a quote from EITS. However, P&P recently decided to use an in-house staff person to complete those enhancements instead. As their staff was looking more into the best way to track risk assessments and share that information with NDOC, they decided they would be able to do this in a more simple way than what had been originally proposed but which would still get them the end result that they were looking for. Due to that they decided to modify the funds requested for that service to \$730.88 as you will see on this slide. You will see that amount requested by P&P in this chart and thus the total of approved requests across all three agencies is lower than discussed at the April 29 meeting.

Since the April 29 meeting, CJI has submitted these approved requests and application to BJA and we

will let the Commission know when we hear back from BJA about the application.

As I mentioned, BJA allocated a total of \$428,000 to Nevada for subaward funding. As you saw on the last slide, \$298,500.88 has been approved by the Commission and submitted to BJA. If BJA approves that amount, there will be \$129,499.12 remaining in subaward funding that Nevada could apply for.

One final note. At the April 29 meeting the Commission also heard a fourth request application from the Washoe County District Attorney Office. They requested \$57,760 for an AB 236 implementation coordinator. If the Sentencing Commission and BJA approved this amount at the next meeting, there would be \$71,739.12 remaining to be allocated.

I would be happy to answer any questions that the Commission may have.

Chair Hardesty: We did move the request from the Washoe County District Attorney's Office forward and I would like to include that on our agenda for July 29. My understanding, Mr. Hicks, I recall that there were going to be a couple of modifications made as a result of our conversations during the consideration of that subaward request. If possible, before the 29th of July, if your office could submit the amended request based on those conversations then we could get to that request by the end of the month.

Chris Hicks: Yes, Justice Hardesty. I apologize, I had to step away and I believe I missed a vote. I believe we have already submitted that to Director Gonzalez, but if we haven't yet I will make certain that it is there in time.

Chair Hardesty: Thank you Chris. We will get that on the next agenda to take up since we have those additional funds available.

In view of the fact that we have additional funding available to us, I have asked the Executive Director to recirculate a request to stakeholders to submit additional requests either by July 29 or by October 1 for our October meeting so that we can consider additional requests that people may not have submitted before. Including existing agencies such as NDOC or P&P or whomever. Because there may be some things that develop or have developed since the initial subaward requests were made. So Chief Carpenter or Director Daniels, if you have additional areas that you want to look into please submit those. And if you are able to do that before the 29th of July that is fine too. I just want to make sure to take advantage of this opportunity moving forward.

6. Discussion of Potential Topics for Future Meetings

Chair Hardesty: I will now move to agenda item 6. If anyone would like to comment on potential topics for future meetings you can do so now. That doesn't mean you can't continue to suggest ideas between now and our next meeting or in the future. You can submit suggested topics to the Director.

I will tell you that for scheduling, in my view we have a lot to accomplish at the July meeting. I intend to keep our focus on this to get our work done by that deadline. I probably will not place any other items on that agenda unless it is an emergency. And the October meeting will also require our attention on recommendation issues as the Director has outlined and more specific information about our budget BDR.

The one thing that I would request is for the Director to place on the July agenda is the status of our own agency budget. I think that the Nevada Department of Sentencing Policy is in real bad shape from a budget standpoint. When you compare the positions that were allocated by the Legislature to, for example, the Indigent Defense Commission, where they have a director, and secretary and a bunch of lawyers and the like and we've got Victoria and Sherry. Given the demands and the responsibilities of the Sentencing Commission and the Department—and we have a hiring freeze on the other lawyer that was allocated so we can't even hire that lawyer. We need to get some relief here if we are going to place such demands legislatively on this Department and have any reasonable expectation that a competent work product can be generated. So, our budget requests are due by the end of July, or at least shortly thereafter. I want to be able to have the Commission entertain some suggestions on that topic from the Director and from me for us to evaluate and pass on to the Legislature.

You are welcome to submit an email with a topic suggestion to myself or to the Director or to both of us after this meeting and any time the Commission meets.

7. Public Comment

Chair Hardesty: I will now move to the next agenda item which is the second period for public comment. We will ask the Director and Ms. Glick if they received any public comment for dissemination to the members of the Commission. We will use the same practice as we did at the beginning of the meeting. We will post on the screen any public comment by name and within two working days of the meeting the actual public comments that were received will be posted on the Department of Sentencing Policy's website. Ms. Glick will send us an email if she has received any public comment during the meeting.

MEMBERS OF THE NEVADA SENTENCING COMMISSION SILENTLY READ PUBLIC COMMENT SUBMITTED BY PATRICIA ADKISSON, JOSEPHINE LEU, AND TONJA BROWN.

8. Adjournment

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

SENATOR PICKARD MOVED TO ADJOURN THE MEETING.

JOHN ARRASCADA SECONDED THE MOTION.

Chair Hardesty: Unlike our previous two meetings, we are an hour and twenty-five minutes into the mission. Thank you all for your courtesy and your patience today.

THE MOTION PASSED UNANIMOUSLY.