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Governor

Victoria Gonzalez  
Executive Director



James W. Hardesty  
Chair, Nevada Sentencing Commission

Chuck Callaway  
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**STATE OF NEVADA**  
**DEPARTMENT OF SENTENCING POLICY**

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**NEVADA SENTENCING COMMISSION**

**MINUTES-APPROVED**

**Date and Time:** July 29, 2020, 9:00 AM

**Location:** VIRTUAL

**MEMBERS PRESENT**

Christine Jones Brady  
Chuck Callaway – Vice Chair  
Chief Anne Carpenter  
Director Charles Daniels  
Chairman Christopher DeRicco  
Judge Scott Freeman  
Justice James Hardesty - Chair  
Darin Imlay  
Keith Logan  
Russell Marsh  
John McCormick  
Kimberly Mull  
Dr. Elizabeth Neighbors  
Dr. Emily Salisbury  
Senator Nicole Cannizzaro

**MEMBERS EXCUSED**

John Arrascada  
Chris Hicks  
Jon Ponder  
Judge Michael Villani  
Assemblyman John Hambrick  
Assemblywoman Rochelle Nguyen  
Senator Keith Pickard

**STAFF**

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

## 1. Call to Order / Roll Call

**Chair James Hardesty:** Good Morning. It is so nice to see everyone. Welcome to the Nevada Sentencing Commission, I will call the July 29, 2020 meeting to order. I was reflecting back a little bit; this is our fifth meeting since our new director was appointed and our eighth meeting of the interim. The statute requires us to meet quarterly, I would say we are way in advance of that requirement. Thanks to everyone for being available.

ROLL CALL

## 2. Public Comment

**Chair Hardesty:** There are two periods of public comment for this meeting. One at the beginning of the meeting and again at the end. We will handle this period of comment in the same manner as we have in our other virtual meetings.

Staff emailed you the public comment that's has been submitted up until this point. I will now pause the meeting so that this Commission may review public comment. During this time, staff will put up a sign to communicate to the public that the Commission is currently reading public comment. Within three working days, actual public comment received will be posted on the Department of Sentencing Policy 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 CARRI CAMPBELL, JEFFREY JONES, JOSIE ARRIAGA, WANDA PRICE-GREEN, CARLA URBINA, SERGIO NEGRETE, BEVERLY COLLINS, JENNIFER CRUZ, VANESSA GOMEZ, ROBERT CRUZ, ANDRENA CHAVEZ, MICHAEL ADKISSON, AND SELENE GAYTAN.

## 3. Approval of Minutes from the June 24, 2020 meeting

**Chair Hardesty:** I will now open the next agenda item, approval of the minutes from the June 24, 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 JUNE 24, 2020 MEETING.

CHAIRMAN CHRISTOPHER DERICCO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

THE CHAIR CANVASSED THE COMMISSION TO ENSURE THERE WOULD BE QUORUM TO CONDUCT BUSINESS OF THE COMMISSION

#### **4. Report from the Executive Director of the Department of Sentencing Policy**

**Chair Hardesty:** This has been one heck of a month for our staff. I cannot begin to thank them enough – both of them – for all of the work that they have been doing. I have thoroughly enjoyed interacting with Victoria and Sherry working on the drafts of the report. As you might imagine, there has been an awful lot of discussion about the reports and then preparing for this meeting and everything else. I am now going to ask Director Gonzalez for her report on the numerous things that are taking place. As you know, she is statutorily required to report to the Commission regarding the functions of the Department. So, she will now present her report.

**Executive Director Victoria Gonzalez:** Thank you Justice Hardesty. Good morning and thank you everyone for being here. The support and activity of this Commission is what interested me in this position in the first place, and you have not disappointed in delivering. It is truly an honor to work with all of you. I am very excited to present the progress that we have made in the short amount of time since I was appointed.

I want to share some specific details regarding the infrastructure of the Department. As many of you know, each state agency has to have a strategic plan to guide the activities of the agency and to measure the outcomes and productivity of the agency. A strategic plan is used to guide our budget building as well, which we are in the midst of right now. We will revisit this plan each biennium as we determine the resources we need and how we can efficiently and effectively use those resources to advance the mission of our Department. Our strategic plan is to be reviewed and updated every five years. This strategic plan has various components some of which I will now share with this Commission. And upon request, I would be happy to share that strategic plan in its entirety.

On slide two, you can see the vision, the mission, and philosophy I have designed for the Department. This vision, mission and philosophy are based on the statutory duties of the Department as well as the Commission. To advance our mission, I have identified seven core functions and priorities which will govern and organize the activities of our Department. These are listed here on slide three. You can see there is an administrative function, a budgetary function, the Commission, AB 236, a report function, a Legislative function, and an outreach function.

Now moving on to the priorities on slide four, which I have identified for each of the core functions. As I move throughout my presentation, I would be happy to answer any questions. As we assess our activities or try to identify what we should be working on, everything we do fits into one of these seven priorities. Additionally, on a weekly basis, I provide a report to Justice Hardesty, and my report is organized by these functions. We hold weekly staff meetings, which are also organized by these core functions and priorities. These core functions are tied to a core function of the State, as identified by the Governor. He has identified his own core functions and priorities, and each agency must tie their activities to one of his core functions and priorities. Our core functions and priorities are tied to the Governor's priority to improve safety, security, and justice in this State.

The next component of our strategic plan that I would like to share with the Commission, is our goals and performance measures. These are important to the budget building process, to measure our

outcomes and how we are performing, and to determine what resources we need. As you can see on slide five these are the three primary goals I have identified for the Department, and these are the first performance measures that I have identified. In our strategic plan there are details about the percentage of these that we will be tracking for each year for the next biennium. We are going to use these as we not only determine what we are spending and are we spending it efficiently. And in the future when we seek enhancements, we can use these performance measures as well to determine what else does our Department need in order to advance our mission, our vision, and philosophy.

Next, I will provide an update regarding the budget of the Department. As you all know, we were asked to make cuts to fiscal year twenty. There was a hiring freeze and a spending freeze. While the fiscal year closes at the end of August, we estimate we will revert back almost \$200,000 to the general fund. We are also asked to make budget cuts for fiscal year twenty-one. Because ninety-one percent of our departmental budget is personnel, our cuts came from vacancies. As this Commission may recall, the Department has two positions that have remained vacant. The Administrative Assistant two (AA2) position and a staff attorney position. Therefore, I decided to spread out the harm a little and keep the AA2 position vacant until at least August of this year and the staff attorney position vacant until March of next year. Additionally, there are various items the Department will need that were not built into our budget. These include lack of funding for renting a copier/printer, a cell phone for me and our staff attorney, research programs such as Westlaw, certain money needed to pay to EITS to manage the IT of our Department, and other costs need to be able to operate the Department on a day to day basis. It is unclear what will be our base in the upcoming biennium, however, at this point I am moving forward as if our base will remain the same. I am going to request certain enhancements to take care of those costs that I just mentioned that weren't previously built into our budget. I am also going to request an enhancement to reclassify the position of the administrative assistant four to a management analyst one. This reclassification would provide the support we need for managing our fiscal activities independently and assist in the collection of data required by Assembly Bill 236 from the 2019 Legislative Session (AB 236).

Next, I will provide a brief update on the data collection required pursuant to NRS 176.01343. As this Commission may recall, the Department is required to collect and assess data from Parole and Probation (P&P), the Nevada Department of Corrections (NDOC) and the Records, Communications, and Compliance Division. The purpose of the data collection is to track and assess outcomes because of the enactment of AB 236. I meet with each of these agencies monthly, just to check in, and I have meetings scheduled with each of them in August to discuss their progress of the data. The agencies are planning to submit data to the Department by October 1 of this year, and I will present the data we receive at the October meeting of the Commission.

Next, I would like to provide an update on the outreach function of the Department as identified as one of the seven core functions of the Department. It wasn't long after I was appointed to this position as executive director, I began receiving mail and phone calls from the public and inmates. I received my first phone call on January 17 and my first letter on January 23. As you recall, I was appointed on December 13. And this is when I was still borrowing office space at the Governor's Office of Finance. I had only been appointed about a month and they found me. What I will present next is a summary regarding those letters and phone calls.

We average three to five phone calls a week from the public and inmates. These calls include questions about AB 236, requests for support to address issues in individual cases, or wanting to express their support or opposition on certain issues. While I clarify that we do not offer representation or legal advice, these individuals want to share their stories and concerns. Currently, I do not have detailed data regarding the phone calls. But we have implemented a procedure where we will set aside time each week for me to receive and return phone calls. We will now be able to better collect data and I will report that information to the Commission in the future.

As I previously mentioned, we received our first letter about a month after I was appointed to this position. In total we have received over one hundred and seventy-six letters. Some of those letters are from the same individuals. So, if I break those almost two hundred letters down, at least 147 individuals have sent mail to the Department. One hundred and thirty-four of those individuals are inmates. Thirteen of them are from members of the public. About twenty to thirty of the letters we have received were sent by various individuals who had written the Department previously.

As a breakdown by institution, six of the inmate letters have come from Ely, eighteen have come from Florence McClure, nine have come from High Desert, thirty-five from Lovelock, fifteen from Northern Nevada, thirty-five from the Arizona facility. I will note that all of those were a form letter where they filled in their name. That form letter included general recommendations to reform the criminal justice system in Nevada, and they wanted us to look at California to reform some of our laws. We received thirteen letters from Southern Desert, one letter from Stewart Conservation Camp, seven letters from Warm Springs.

I also want to point out some of the repeat issues that we received in the inmate letters, letters from the public, and phone calls. I have received at least twenty-one letters expressing support to make AB 236 retroactive and multiple phone calls. Maybe ten to twenty phone calls expressing their support for making AB 236 retroactive. At least forty-seven of the letters we received have individual requests, seeking help with their individual cases, whether it is about programming, or seeking release, or other assistance like that. About six of the letters mentioned concerns about the habitual criminal statute. I have received four letters mentioning NRS 193.165, which is the use of a deadly weapon as an additional penalty. I am also receiving multiple phone calls about that issue as well. Nine of the letters we received mention the COVID-19 Crisis.

I want this Commission to know that I read every single letter. We track information for each letter, and we respond to every first letter from an individual. Sometimes, we respond with a form letter, other times I am able to take the time and write a more individualized letter. Everyone gets a first response.

These calls, letters, and the submissions for public comment are an indication that the public sees the Department and the Commission as a resource and platform to express concern and support for issues relating to sentencing and corrections policies. I am cautious in my communications, but I want to serve this Commission. I make it clear that I am not providing legal advice or representation. I still worry my phone conversations will be mischaracterized. To that end, I would invite any recommendations from this Commission, on how it would like the Department to handle these calls and letters. When I was appointed, I was not expecting this type of interaction with the public. I welcome it. But I also want to make sure that I am advancing the intention and the mission of this Commission and the Department. I would like to know how the Commission prefers that we handle this interaction. We could reduce our

interaction; we could increase our interaction. We are going to track our interactions in our performance measures. Because we may find that we need to enhance the budget either by resources or personnel in order to handle this activity with the public.

If this Commission wishes, I can also provide detailed updates like the one I provided today and include more or less detail as this Commission prefers.

Next, I will quickly provide an update about the Nevada Local Justice Reinvestment Coordinating Council. AB 236 requires the establishment of the Nevada Local Justice Reinvestment Coordinating Council. The purpose of this Council is to address the concerns and needs in counties regarding the behavioral health programs and treatment for incarcerated persons. The Council may also administer any funds it receives in the form of grants to counties throughout the State. Due to the COVID-19 Crisis, I have not been able to get the Council members appointed from each county. As public bodies adjust to holding virtual meetings, I have requested to be added to the August 28 meeting of the Nevada Association of Counties to present information about the Council and invite appointments from each Board of County Commissioners.

In my research, I have discovered the Regional Behavioral Health Policy Boards that represent five different regions throughout the State. I would recommend to this Commission that the Council coordinate closely with the Regional Behavioral Health Policy Boards. Not only in terms of determining appointments for each of the counties but also supporting the activities of the Council. This would conserve resources and not duplicate efforts. This would really focus on the needs for incarcerated persons who are being released and need support upon release. If this Commission wishes, I could initiate contact with each of the Regional Policy Boards and maybe even coordinate appointments with them and with the Boards of County Commissioners as I am on the NACO agenda for August 28.

Finally, I will present some information about our proposed fiscal BDR. At the last meeting of this Commission, I mentioned that the Department receives a policy BDR and a fiscal BDR that we can submit. The deadline for the policy BDR has passed, however, the deadline for the fiscal BDR for the Department is due September 1 as part of the budget building process. At this point, I have identified one proposed BDR for this Department in terms of our fiscal activities. The proposal I have before this Commission would request the following language be added to NRS 176.0133. This proposed language will assure that the funds for legislative pay for the legislative members on our Commission come from the LCB budget and not from the Department's budget.

Early on in my appointment and the activities of this Commission, I interacted with the acting Director at that time, so that we could coordinate the best way that the legislator pay got processed. The statute is not clear about how that pay would be administered. He assisted me in making sure that was taken care of and we have been working with them very closely to coordinate pay for the Legislative members on our Commission. I will also mention, if the statute is not specific that the pay not come from the Department, it could cause some potential conflicts, but if we add this language, we do not have to worry about that. I also want to let you know that I have already reached out to the newly appointed Director of LCB and I suggested my proposal to her, and she is in support of this language as well. It will ensure in the future that there won't be any question about how this legislative pay is administered.

I would now be happy to take any questions from the Commission at the pleasure of the Chair.

**Chair Hardesty:** Are there any questions for the Director? Seeing none, I support the Director's request to modify the language in NRS 176.0133. I would entertain a motion to allow her to proceed with that Departmental budget building modification.

SHERIFF KEITH LOGAN MOVED TO APPROVE THE PROPOSED BDR TO AMEND NRS 176.0133 TO INCLUDE LANGUAGE CLARIFYING THAT PAY FOR LEGISLATIVE MEMBERS OF THE COMMISSION WILL BE PAID OUT OF THE LEGISLATIVE FUND.

JOHN MCCORMICK SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

**Chair Hardesty:** Next, I would like to circle back to the budget part of the Director's report where she detailed the budget cuts and the realignment and enhancements. Particularly addressing the requests that our AA4 be reclassified to Management Analyst 1. I would like to accept that portion of her report and entertain a motion authorizing her to proceed with the enhancements that she has outlined.

JUDGE SCOTT FREEMAN MOVED TO AUTHORIZE THE DIRECTOR TO REQUEST THE RECLASSIFICATION OF THE AA4 TO A MANAGEMENT ANALYST 1 AND REQUEST ADDITIONAL ENHANCEMENTS AS NEEDED.

DARIN IMLAY SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

**Chair Hardesty:** The next area worth discussion in her report is the response to the correspondence and telephone calls. I don't think this requires action by the Commission unless the Commissioners feel differently about this. I am generally familiar with the responses that the Director has been providing. I have encouraged her to handle this exactly the way she has chosen to do so. I think it is healthy for the Department to interact with the public as long as we refrain from legal advice and we are simply providing data. I think it is a service that is beneficial and hopefully will enhance input to the Commission on policy issues that we might debate later on as we continue our work this year. Would anybody prefer to have this handled in a different manner?

**Dr. Elizabeth Neighbors:** I think what was described was very appropriate and I would support it continuing that way.

**Dr. Emily Salisbury:** I agree too. In terms of keeping the dialogue with the public it is critical and crucial. I do wonder if it is possible to direct folks to the appropriate party or appropriate commission or legislative body. I think there is naturally a lot of confusion about what our role is. Maybe having a standard form or explanation about where people can use their voice or seek advocacy is also important.

**Director Gonzalez:** Thank you, Dr. Salisbury. I appreciate that comment. That is something we have thought about and I didn't want to go too far in giving that sort of direction. But that has been my experience as well as I talk to individuals. They are just not sure where to go. And I can tell how appreciative they are just to have somebody answer their phone call or their letter and direct them.

Even if I have to tell them that I don't know, or there is nothing I can do. They are just happy to know. I am happy to enhance our responses in terms of encouraging them to continue to write letters and encourage them to engage with the process and know which commissions or public bodies to reach out to and then how the process works and to participate with the Legislature. I predict, especially with the upcoming Special Session, we are going to get a lot more questions about what a bill says, what proposed amendments are out there, and what a law says as it exists. I think what you are saying would be right in line with that to address those questions that I think that we are going to get more of. I am happy to have the Department act as that resource for resources in terms of how to get their voices heard in the process.

**Chair Hardesty:** I don't have a good answer for her about how she guards herself against oral communications on phone calls. That is just a risk we all accept I guess in communicating with the public. I think we can all see from the Director's demeanor and her attention to detail, that I am not too worried about that personally. I am really proud of her and the work that she and Sherry have done.

## **5. Review and Possible Action on Projected Amount of Costs Avoided Report**

**Chair Hardesty:** We will now move to agenda item number five. The primary focus of today's meeting is a presentation and possible action of the draft report that is due to the Legislature and the Governor on August 1. If you will recall, from our meeting on June 24<sup>th</sup>, Victoria provided some information regarding a proposed methodology for the report, the projected amount of costs avoided. Which must be submitted by August 1 to the Governor and Director of the Legislative Counsel Bureau. At our meeting on June 24<sup>th</sup> the Commission approved unanimously an outline for the Director to use for drafting the report and she has done a terrific job, in my judgment, in preparing the draft for us to look at today. The draft was circulated Friday and is part of our meeting materials. Victoria, if you would proceed to give an overview of the draft and then we can entertain any questions about the draft and then specifically focus on one area where we will solicit input from the members of the Commission.

**Director Gonzalez:** Thank you, Justice Hardesty and thank you again to the Commission. I am going to take a higher view of the report as I know that you all had time to review and I am looking forward to inviting whatever response you have as far as the direction that we want to go in. I will give you some background about how I got here with the report, as some of you already know, based on our previous meeting on June 24<sup>th</sup> and our process.

As you recall, at the June 24<sup>th</sup> meeting, at the request of Justice Hardesty I solicited comments before I began the draft and I heard back from a few members of the Commission, I thank you very much for your thoughtful comments. I wanted you to see a draft of the report before I specifically addressed any of those so you can see how those comments may or may not be applicable to the format and the content of the report and the Commission can decide how it wants to move forward.

In advance of writing, I also had a very informative meeting with Director Daniels and his staff to discuss certain issues relating to assessing the costs with operating of each facility of NDOC as we discussed at the June 24<sup>th</sup> meeting. I will also note that through the writing process, the outline that I developed evolved. I reviewed justice reinvestment reports from other states, I consulted with staff from CJI and I also consulted with the Chair.

If you look at the table of contents, the big sections are laid out as such. There is a background section, and then I renamed the next section Considerations in Developing a Methodology and I laid out the statutory requirements, the fact that we did not have a prescribed methodology, that this Commission considered information related to the statement of amount of costs avoided, which is a separate report that this Commission is going to submit on December 1. I mentioned the discussion of the prison population projections, the methodology from 2018. A lot of this was information I presented to the Commission at the meeting on June 24<sup>th</sup>.

I also tried to incorporate some of the information I learned from NDOC, the amount of detail that we want to go into for this report - I wasn't quite sure and also this report is very early on in the deliverables of not only this Commission but the enactment of AB 236. We are very early on in the process. I appreciate that right now we are setting up the methodology and the procedure and I hope that in the future I will be interacting with NDOC before I even start drafting as we talk about what kinds of things we need to include in this report.

The last section of the report guiding principles and priorities for investment is largely from the statute that requires the report. I did not depart from the statutory language because I did not want to mischaracterize the intent of this Commission in terms of recommendations. That statutory language is pretty direct, and I think it is pretty clear. So, while that language isn't very flowery in that part of the report, I thought it best to stick with that until we get more data and the Commission decides which direction it would like to go. That is an area of the report that the Commission can discuss and could play with more now and in the future.

I did not intend to go through the report in any more detail but I would be happy to turn the time back over to the Chair in terms of how he would like to proceed and I would be happy to answer any questions or hear any comments.

**Chair Hardesty:** I think the most productive thing to do would be to request from Commissioners any edits that they may suggest to the report, be they substantive or otherwise. We will turn to page ten of the report in a moment, but I would like to first address whether the members of the Commission have any edits or comments that they would like to offer for Victoria's consideration. Do any Commissioners have any edits or comments to the report?

Seeing none, let's turn to page nine and then to page ten. You may recall from the review of the JFA report, which set up the projections for a number of things contained in the report as well as the report that was used for the legislature establishing the baseline for AB 236, that there have been a number of unexpected decreases in new court commitments from June 2019 through January 2020. JFA offered some suggestions or observations but it is not clear whether this is really a trend. What I want to make sure is that the Commissioners had an opportunity to offer their own suggestions on page ten as to what might be the potential reasons for the decline in commitments during that six-month period. I think that has probably continued through the end of the fiscal year as well. I wanted to make sure that your opinions and your thoughts were catalogued in the report if you wanted to make any suggestions. I know that in the past, Vice Chair Callaway has been very successful in monitoring these areas and so, Chuck, if you have anything you would like to mention in particular, that would be terrific. Or any Commissioner. I will open it up for that discussion and see if anyone would like to make any suggestions to that area. Vice Chair Callaway, do you mind if we start with you?

**Vice Chair Chuck Callaway:** Thank you Justice Hardesty, from reading the draft I think I have made my concerns in the past known and I think it is something that is a work in progress moving forward. I know Director Gonzalez has done a lot to listen to my concerns. My primary concern is that when we look at the costs savings or the costs projections that we are also taking into account impact to local jurisdictions, jails and impact that may be perceived at one end to be a savings but it is more of a diversion rather than a savings. And that has always been my primary concern as we look at this. I am optimistic that moving forward we can evaluate that based on the data and determine if it is cost savings or cost diversion.

**Chair Hardesty:** Chuck, do you feel that the report adequately conveys that concern?

**Vice Chair Callaway:** Yes, Your Honor. I believe it does at this point. Again, I think it is work in progress and I think it is difficult at this early stage in the game when AB 236 passed and we are not sure how that is going to impact crime numbers and or impact arrest numbers and jail population and then throw the whole COVID-19 Crisis in the mix. I think we are going to need to make sure that when we see, for example, just hypothetically we see it decrease next year in overall crime or we see in increase in overall crime, what is the cause? Is it the changes made in AB 236 or is it COVID-19 or a variety of other social issues out there that have caused an impact on crime in general which then results in costs or savings? I don't think we are going to get it perfect in this draft, but I think at this point and moving forward we can look at and address those areas.

**Chair Hardesty:** Any Commissioner can make any comments they like. I was focused on page ten, but I would invite any comments to that page or suggestions that you may want to add relating to the decline that has taken place in the prison population so far or any other aspect of the report. Are there any comments that anyone would like to offer?

**Chief Anne Carpenter:** On page ten, we talk about decreasing recidivism and what is that definition for this group?

**Chair Hardesty:** My understanding is that it is the recidivism definition that was used by NDOC and I think to be consistent at least I have been operating under the understanding that that would be the definition that we would use to maintain consistency in the recording of data and following that. I believe that is consistent with your Department as well, correct?

**Chief Carpenter:** That is not correct. Our definition is different.

**Chair Hardesty:** Okay. Let's address that. Probably in a footnote, and frankly it is something that this Commission needs to reconcile, I think. Chief Carpenter, do you mind providing your definition and then we will get the NDOC definition?

**Chief Carpenter:** Loosely, the Division of Parole and Probation does not take into consideration the time that the parolee or probationer is under our supervision. So, we wait until the probationer or parolee has been discharged, and once they have been discharged from supervision then it is three years after that.

**Chair Hardesty:** Director Daniels, what is NDOC's definition? Just for the record.

**Director Charles Daniels:** Let me get back with you on that, I believe we have that written somewhere so that I can give you an accurate depiction of how we define that.

**Chair Hardesty:** That would be great Director, I appreciate that, and we will make sure a footnote goes into the report that recognizes the differences between the two departments. By the way, while we are at it, Director Daniels, I want to thank you and your staff for your assistance in cooperation with Director Gonzalez in her work on this matter. I really appreciate it.

**Director Daniels:** Executive Director Gonzalez has been awesome. She is tremendous. For the record. Thank you.

**Chair Hardesty:** Any other comments or edits to the draft report? Chief Carpenter, was that extent of what you wanted to raise, or did you have something else you were going to comment about?

**Chief Carpenter:** No, that's all. Thank you.

**Dr. Neighbors:** In regard to the definition of recidivism, I also think it might be helpful if the behavioral health system also shares a definition, given that the forensic hospital also deals with this issue and brief folks into not reoffending. I don't know that our definition is consistent with NDOC and Parole and Probation, but it might be good to bring them all in line.

**Chair Hardesty:** That is a great point, Dr. I think you are right. Would you mind sending an email to Victoria to include that in the footnote discussing this subject?

**Dr. Neighbors:** Yes, I would be delighted to do that.

**Chair Hardesty:** Director Daniels and Chief Carpenter, could you also please identify the rationale for the definition you use? The underlying rationale is pretty important with respect to these differences.

From my own perspective, the main challenge that I think is going to occur, is how we compare savings, or as Chuck would characterize them in some instances, diversions, when you look at page eleven. When the Legislature makes the cuts that they made to NDOC, that is separate, independent and its causal relationship is different than the impacts created by AB 236. So, going forward, I asked Victoria to make sure that this was included in the report because we need to compare apples to apples as we work forward in assessing AB 236 impacts. And not have that adjusted by the cuts that were made in the Session. At least that is my view. I trust other members of the Commission would share that point of view.

Unless there are any other comments, with the addition of the footnote, I would entertain a motion to approve the report as drafted and with that edit and forward it to the Governor and LCB on August 1.

JUDGE SCOTT FREEMAN MOVED TO APPROVE THE REPORT AS DRAFTED WITH THE INCLUSION OF A FOOTNOTE REGARDING THE VARIOUS DEFINITIONS OF RECIDIVISM AND DIRECT THE EXECUTIVE DIRECTOR TO SUBMIT THE REPORT TO THE GOVERNOR AND THE DIRECTOR OF LCB BY AUGUST 1.

DR. ELIZABETH NEIGHBORS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Hardesty:** Once again, thank you Victoria and Sherry, for your extraordinary work in compiling our first report. We really appreciate it.

## **6. Review and Approval of Requests for Subawards**

**Chair Hardesty:** I will now open agenda item number six. We have some outstanding subaward dollars and so as you know on April 29<sup>th</sup>, Abigail Strait from the Crime and Justice Institute (CJI) provided an update on the status of the of subawards. I am happy to report that CJI informed me and Director Gonzalez last week that the Bureau of Justice Assistance (BJA) approved those requests and CJI is now working on the subcontracts for those requests and is in the process of funding them. So, we should see dollars very soon. The Commission then approved the amended requests for Parole and Probation, POST and NDOC. At our meeting on June 24<sup>th</sup>, Ms. Strait informed the Commission that there were remaining funds, so I asked Victoria to solicit additional requests for funding. The Commission has four additional requests today, I will now turn the time over to Ms. Strait to provide some more information, an update and walk the Commission through the new requests. We also have representatives from each agency which requested the funds and they are available to answer questions concerning their requests. Ms. Strait would you like to proceed?

**Abigail Strait:** Thank you Justice Hardesty. As Justice Hardesty was just saying, the Bureau of Justice Assistance made a total of \$428,000 in subaward funding available to Nevada. At the April meeting of the Sentencing Commission, the Commission approved applications from NDOC, Parole and Probation, and the Commission on Peace Officers Standards and Training. Those requests totaled \$298,500.88 as the Chair just described. That application was approved by BJA, they approved that amount in full which we are very thankful to them for their quick approval of this request. We are now working with each of those agencies to draw up subcontracts so they can begin spending down the funds. That leaves an additional \$129,499.12 remaining for additional requests. The Department of Sentencing Policy received a revised request from the Washoe County District Attorney's Office, as well as the three new requests from the Department of Sentencing Policy, the Division of Parole and Probation, and the Department of Public and Behavioral Health. The total of those requests is \$210,798 which exceeds the total amount available by \$81,298.88.

You should have all received the full applications in your meeting materials, but I will quickly provide an overview of each request now and as the Chair mentioned there is a representative from each agency present to answer any questions that you may have about the specifics of each request and there will be time for those questions after I have finished my overview right now.

First, the Washoe County District Attorney's Office, at the request of the Sentencing Commission at the meeting on April 29, the District Attorney's Office revised their original application for subaward funding. The Office is now requesting \$57,760 for an AB 236 implementation coordinator. That position would run from October 1, 2020 through June 30, 2021. This would not be a full-time county employee but rather would be a contractor brought in through a staffing company. That coordinator will have three main duties, first develop training materials and presentations related to the enactment of AB 236 for attorneys allowing for remote access. Second, work with information technology and support staff to make necessary changes to autogenerated documents such as charging documents, to ensure the

documents are updated to comply with the changes in AB 236. And finally, identify AB 236 data collection needs and work with attorneys, support staff, and IT staff to develop methods for collecting data related to recidivism reduction, offense rates, and diversion outcomes and the coordinator would analyze that data and prepare visuals and other written materials, including quarterly reports and annual report.

The next request in your packet of materials should be the Department of Sentencing Policy's request. The Department is requesting \$67,812 to fill a staff attorney position from October 1, 2020 to March 1, 2021. The Department was originally appropriated four staff to carry out the existing statutory duties of the Sentencing Commission and duties concerning AB 236, however due to the State's current budget constraints the Department will not have funds available in its budget to hire the staff attorney position until March 1, 2021. Since the Department is newly created, the staff attorney position would offer support to establish a strong infrastructure to carry out the mandates required to fully implement AB 236 and the staff attorney will perform three main duties. First, assist with data collection required pursuant to AB 236. Second, assist in the writing of the report that is required by AB 236. Third, provide staff support to the Nevada Local Justice Reinvestment Coordinating Council. This funding would allow the Department to hire the staff attorney starting this October, instead of needing to wait until March 1, 2021.

The third request is from the Division of Parole and Probation. P&P is requesting \$18,600 for improvement to the equipment available to officers in the field. These funds would allow P&P to purchase 300 car adapters so that officers may charge their laptops in their cars while they are working in the field. Officers typically work ten hour shifts in the field, but the current battery life of their laptops is between 2-4 hours, which impedes the officers' ability to work effectively in the field. The new chargers would allow the officers to work more efficiently without worrying about running out of battery on their computers while on their shift.

The final request is from the Division of Public and Behavioral Health, which is requesting \$35,000 to institute a cognitive behavioral treatment program at the Lake's Crossing Center, which is Nevada's maximum-security forensic hospital. This program would be designed for individuals with impairments and impulse control, emotional regulation, interpersonal relations, and who demonstrate criminogenic thinking patterns. Lake's Crossing Center treats clients with a multidisciplinary team to address mental health needs but the Center currently lacks resources to address the clients' criminogenic needs. Cognitive Behavioral Therapy (CBT) programs have been proven effective at addressing these needs, so the Lake's Crossing Center would like to implement one of those programs. The funding requested would allow the Division to hire a clinical coordinator to develop the program and provide facilitator training and equipment to implement the CBT program.

That is my overview of the requests received by the Department. Once again, these requests total \$210,798, however, the total amount of funding that remains available to Nevada is \$129,499.12. I will now turn it back over to Justice Hardesty for the remainder of this agenda item.

**Chair Hardesty:** I am open to however Commissioners would like to proceed. But I was going to make a couple of suggestions. One is, the Department of Sentencing Policy, our own staff, is a serious priority given the budget cuts. What I was going to suggest though is that maybe we adjust that number by adjusting the period of time. So, instead of from October 1 to March 1, perhaps it would be December

1 to March 1. Which would make some space for additional appropriations.

Does anyone have any questions for any of the requesters?

**Russ Marsh:** I have questions about the P&P request and also the other one regarding how that fits with the purpose behind the funding received. Obviously, the one for ourselves does, but I am just not sure—believe me, I love P&P, I am sure you wouldn't ask for the money if you didn't need it, but I am not sure how extending battery life fits with the type of request that we have got previously on this or the purpose for the funding.

**Chair Hardesty:** Chief Carpenter, would you like to respond, or do you have a staff member that can respond?

**Chief Carpenter:** I have staff on to respond, for this particular question I understand what Mr. Marsh is saying. I think Parole and Probation in this area went about it differently. We too, have had extensive cuts, I think I have to keep ninety-five positions unfilled for a long time. Instead of asking for more bodies to fill, we decided to utilize our bodies that are in the field more efficiently. I hope that answers the question.

**Mr. Marsh:** It does.

**Chair Hardesty:** And I believe, Mr. Marsh, you had a question about the request from the Division of Public and Behavioral Health. Or was it the District Attorney?

**Mr. Marsh:** Yes, it was the same question for the Division.

**Chair Hardesty:** Dr. Neighbors, would you like to respond?

**Dr. Neighbors:** As everyone is aware, the forensic hospitals in the State sit at the cusp of the criminal justice system between the prison, the community, the detention centers and we are looking at an opportunity which we have actually looked at for a long time to try to address the criminogenic thinking which there is a fair amount of literature that supports the [inaudible] health systems. It is not enough to reduce recidivism that you have to have this second piece and we thought that this would be opportunity to add that to the program to develop a pilot program with this model. Which has been established nationally also has [inaudible] corrections as well as community offenders that are in the community, Parole and Probation, conditional release. This would be an opportune junction at which to intervene and add this piece which will hopefully reduce recidivism that we could track on a three to five-year basis after we have made that intervention. As well as make ourselves available once we have the training and the model established to other criminal justice agencies as this reinvestment project goes forward. That is how we felt that it fit within the goals of justice reinvestment initiative.

**Chair Hardesty:** Dr. Neighbors, would this number be reduced if the start date changed from September 1<sup>st</sup> to December 1<sup>st</sup> as we are suggesting for the Department?

**Dr. Neighbors:** Yes, it would because the biggest piece of this is the staff to coordinate overseeing implementation of the program. We wanted a contractor who would focus solely on implementing the program and had a Licensed Clinical Social Worker (LCSW) potentially that we would look at bringing

in who is familiar with the system who could implement it.

**Chair Hardesty:** And would the number change, I assume it would if the end date were the fiscal year of June 30?

**Dr. Neighbors:** Yes. That would reduce the salary amount.

**Chair Hardesty:** Commission, I know this is challenging for all of us, but I have a suggestion that I would like to make. I think if we adjust the dates, even having the District Attorney's Office adjust their start date. I think in doing so, we could accommodate all of the requests that we have received. What I am asking, is if the Commission will give the Director the authority to approve all of these requests but with changed start dates, with the exception of the Division of Parole and Probation which is a hard cost thing and is not affected by the start date. That request would be approved in full, but the other requests would be further adjusted by the start date. Ms. Strait could we get that accomplished in that manner? I understand, without getting into the numbers, but I want to give the Director the authority to do this. Revise these subaward requests based on the start dates and try to fit them all within the \$129,000 plus that we have.

**Ms. Strait:** Yes. I believe that would work, not knowing the exact numbers. But I also realized that I did my math wrong earlier, so I need to correct myself. The actual total of all the requests currently would be \$179,172. Over the amount available by less than the amount that I originally stated. Given that, I think with the changes you are proposing, again depending on the exact amounts that feels reasonable to me that that could work.

**Chair Hardesty:** Dr. Neighbors, would that be okay with you if we worked with you on the adjusted start date? It might be November 1<sup>st</sup> instead of December 1<sup>st</sup>.

**Dr. Neighbors:** Yes. We just appreciate your consideration and would be thrilled to be able to implement this.

**Chair Hardesty:** I am not sure who is on the phone for the DA's Office, Ms. Noble, Ms. Fralick are you with us?

**Jennifer Noble:** Yes, Jennifer Noble and Lori Fralick from the Washoe County District Attorney's Office are here.

**Chair Hardesty:** Would that approach be okay with you? I know we bumped you before, but we are trying to squeeze everybody in. Is that okay?

**Ms. Noble:** Absolutely. We really appreciate any consideration and funding we can get. We can adjust numbers at the Sentencing Commission's request.

**Chair Hardesty:** I would like to approve the P&P request as submitted and give the Executive Director the authority to allocate the rest of the subaward money from the other three requesters based upon their start or end date. May I have a motion with respect to that proposal if people agree?

SHERIFF KEITH LOGAN MOVED TO APPROVE THE REQUEST SUBMITTED BY THE DIVISION OF PAROLE AND PROBATION AND AUTHORIZE THE EXECUTIVE DIRECTOR OF THE

DEPARTMENT OF SENTENCING POLICY TO WORK WITH THE OTHER AGENCIES WHO SUBMITTED REQUESTS TO MAKE ADJUSTMENTS TO START AND END DATES TO ENSURE THAT THEY ALL RECEIVE FUNDING.

CHRISTINE JONES BRADY SECONDED THE MOTION.

**Christopher DeRicco:** I have one discussion item on this. I would like to see if there was a way that the Department of Sentencing Policy could work that out to have that attorney position starting effective October 1 with cutbacks to sliding the dates back on the others. Because I view that position is so much related to AB 236 and the limited staff that they have right now. I think that would be absolutely impactful to Ms. Gonzalez and her one other co-worker that if there was a way, we could get that one effective October 1 and move the other dates back. I don't know what those numbers would look like but that is a thought of mine. That position is so critical to get her started on as soon as possible.

**Chair Hardesty:** Very good point Chris. And there is one other option which I would like to explore with Legislative leadership. And that is the possibility that if we get a portion of this funded maybe we could go to IFC and get the balance funded. It would be a relatively small amount. Maybe, ten or fifteen thousand dollars in order to accomplish the objectives. I don't want to put Senator Cannizzaro on the spot, so I am not even going to ask her to comment. But it is something that I think is worth thinking about. Because obviously this staff is really burdened with only two people. I have been praying that neither one of them get the flu let alone COVID-19. We have got to keep them healthy. I have told Victoria I am going to put her in a bubble.

Any other discussion on the motion. All in favor? Is there anyone opposed?

THE MOTION PASSED UNANIMOUSLY.

## 7. Discussion of Potential Topics for Future Meetings

**Chair Hardesty:** I will now move to agenda item 7. As you know, our next meeting is October 28, 2020. We have a number of substantive areas that we have identified before. I am certainly open to entertaining any suggestions from Commissioners now or you are welcome to submit emails to the Executive Director and me for consideration on our next agenda. Would any Commissioner like to offer any suggestion or comment on this topic?

I would like to use this opportunity also to request Director Daniels to give us an update on the COVID-19 testing and the work that he has been doing at the prison on that particular subject.

**Director Daniels:** As of July 28<sup>th</sup>, NDOC has an offender population of 12,123 inmates. As most of you know, this number changes regularly, but right now we have a range that is pretty tight. This number excludes pending transfers from local jurisdictions. Our testing numbers as of this morning are in terms of offenders we have tested, 12,260 which represent ninety-nine point nine percent and that excludes our inmates that are at our contract facility in Arizona who are housed by a private company called CoreCivic. Those of ours that have been tested here in our State a total of twenty-two have tested positive. And that represents roughly point one eight percent of all of our inmates. Of those twenty-two, four were detected in general population and the rest were identified in our intake unit and they will be isolated, and those inmates are there for a minimum of twenty days.

In terms of staff, we have tested two thousand six hundred thirty-eight which represents ninety-six percent of our staff. We have had a total of seventy-three at some point in time who did test positive for a percentage of two point seven six.

Now for our inmates that are in a private facility in Arizona, we have a total of ninety-nine inmates there in house. Of those ninety-nine, sixty-nine of those inmates tested positive. After they tested positive, we communicated with the leadership in CoreCivic, and we are now monitoring those individuals from a security as well as a medical standpoint. They put in procedures that we consider to be adequate for what we are trying to accomplish. And in time, it will be our goal to get those ninety-nine inmates back to Nevada no later than December 31<sup>st</sup>. Although, we have a contract that exists through June 30, 2021.

I would be more than happy to take any questions if you would like.

[Due to technical difficulties questions could not be answered.]

## **8. Public Comment**

**Chair Hardesty:** I will now move to the next agenda item which is the second period of public comment and we will handle it in a similar manner as we did the first period of public comment. I believe Ms. Glick has sent two more submissions that have been received. That brings us fifteen total submissions. Commission, if you will review the two additional public comments that have been forwarded by Ms. Glick. We will post on the screen any public comment by name and within three working days of the meeting the actual public comments that were received will be posted on the Department of Sentencing Policy's website.

MEMBERS OF THE NEVADA SENTENCING COMMISSION SILENTLY READ PUBLIC COMMENT SUBMITTED BY PAMELA JOHNSON AND CRAIG JOHNSON.

## **9. Adjournment**

**Chair Hardesty:** I will entertain a motion to adjourn. Again, I would like to express my personal thanks to Director Gonzalez and Ms. Glick for their extraordinary work on behalf of the Commission. Thanks to all of you for attending. Our next meeting will be on October 28<sup>th</sup> and we will proceed with [inaudible] at that time.

JUDGE SCOTT FREEMAN MOVED TO ADJOURN THE MEETING.

JOHN MCCORMICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.