



Nevada Sentencing Commission Meeting

April 29, 2020

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Steve Sisolak
Governor

Victoria Gonzalez
Executive Director



James W. Hardesty
Chair, Nevada Sentencing Commission

Chuck Callaway
Vice Chair, Nevada Sentencing Commission

**STATE OF NEVADA
DEPARTMENT OF SENTENCING POLICY**

625 Fairview Drive, Suite 121 / Carson City, NV 89701-5430
Phone: (775) 684-7390
<http://sentencing.nv.gov>

**NEVADA SENTENCING COMMISSION
PUBLIC MEETING NOTICE AND AGENDA**

- Date and Time:** April 29, 2020, 9:00 AM
- Location:** VIRTUAL ONLY
- Meeting Access:** The meeting may be viewed electronically through an Internet connection by accessing the following link <http://nvcourts.gov/Supreme> and then clicking on "Live Video".
- Public Comment Submissions:** See instructions below.

AGENDA

- 1. Call to Order / Roll Call**
- 2. Public Comment** (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item.)
- 3. Approval of February 19, 2020 minutes** (For discussion and possible action)

4. Report from the Executive Director of the Department of Sentencing Policy (For discussion and possible action)

- A. Summary of Recent Activities of the Department
- B. Update on Budget
- C. Update on Collection of Data Pursuant to NRS 176.01343
- D. Upcoming Report Pursuant to NRS 176.01347: Costs Avoided

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

5. Review and Approval of Requests for Subawards (For discussion and possible action)

- A. Overview of Subawards Program
- B. Review of Requests for Subawards Received to Date
 - i. Nevada Department of Corrections
 - ii. Division of Parole and Probation of the Department of Public Safety
 - iii. Peace Officer Standards and Training Commission
 - iv. Washoe County District Attorney
- C. Approval of Requests and Recommendation to Forward Approved Requests to Bureau of Justice Assistance

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

Barbara Pierce, Director of Justice Initiatives, Crime and Justice Institute

6. Presentation on Responses to COVID-19 Crisis by Criminal Justice Agencies in Other States (For discussion and possible action)

Barbara Pierce, Director of Justice Initiatives, Crime and Justice Institute

Abigail Strait, Senior Policy Specialist, Crime and Justice Institute

7. Discussion and Possible Action on Recommendations Concerning Potential Inmate Releases as Response to COVID-19 Crisis (For discussion and possible action)

- A. Update from Certain Criminal Justice Agencies Concerning Responses to COVID-19 Crisis
 - i. Nevada Department of Corrections
 - ii. Division of Parole and Probation of the Department of Public Safety
- B. Consideration and Selection of Recommendations Contained within *The SAFER Plan: Preventing the Spread of Communicable Diseases in the Criminal Justice System* by the REFORM Alliance
- C. Consideration of Recommendations to the Board of Pardons Commissioners for Categories of Potential Inmate Releases

8. Presentation Concerning Responses to COVID-19 Crisis at the Clark County Detention Center (For discussion and possible action)

Chuck Callaway, Police Director, Las Vegas Metropolitan Police Department

9. Update on Plan of Implementation of Assembly Bill No. 236 (2019) (For discussion and possible action)

A. Implementation Update

B. Practitioner's Guide

Barbara Pierce, Director of Justice Initiatives, Crime and Justice Institute

Abigail Strait, Senior Policy Specialist, Crime and Justice Institute

10. Discussion of Potential Topics for Future Meetings (For discussion and possible action)

11. Public Comment (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item.)

12. Adjournment (For possible action)

NOTE: Items may be considered out of order. The public body may combine two or more agenda items for consideration. The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. The public body will limit public comments to three minutes per speaker and may place other reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint. We are pleased to make reasonable accommodations for members of the public who have disabilities and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Sherry Glick by email at sglick@ndsp.nv.gov. Supporting materials for this meeting are available by contacting Sherry Glick by email at sglick@ndsp.nv.gov.

NOTE: Pursuant to Governor Sisolak's Declaration of Emergency Directive entered March 22, 2020, which suspend the provisions of NRS 241.020 requiring designation of a physical location for meetings of public bodies where members of the public are permitted to attend and participate, the Nevada Sentencing Commission will NOT have a physical location open to the public until such time the Directive is removed.

The meeting may be viewed electronically through an Internet Connection by accessing the following link: <http://nvcourts.gov/Supreme> and then clicking on "Live Video".

Members of the public who wish to participate during a public meeting may do so by providing public comment during the two designated public comment periods, by written submission to the following email address: sglick@ndsp.nv.gov. For inclusion or reference in the minutes of a meeting, your public comment must include your full name and be submitted via email at any time during the meeting. Messages received will be transcribed for entry into the record and provided to the Nevada Sentencing Commission for Review.

Agenda Posted on the Internet:

1. <http://sentencing.nv.gov>
2. <https://notice.nv.gov>

Steve Sisolak
Governor



Victoria Gonzalez
Executive Director

**STATE OF NEVADA
DEPARTMENT OF SENTENCING POLICY**

625 Fairview Drive, Suite 121 / Carson City, NV 89701-5430

NEVADA SENTENCING COMMISSION

MINUTES

Date and Time:

February 19, 2020, 9:00 AM

Location:

Old Assembly Chambers of the Capitol Building
101 N. Carson Street
Carson City, Nevada 89701

Video Conference Location:

Grant Sawyer Building
555 E. Washington Avenue, Ste. 5100
Las Vegas, Nevada 89101

MEMBERS PRESENT:

John Arrascada
Chuck Callaway-**Vice Chair**
Senator Nicole Cannizzaro
Chief Anne Carpenter
Director Charles Daniels
Chairman Christopher DeRicco
Judge Scott Freeman
Justice James Hardesty-**Chair**
Chris Hicks
Darin Imlay
Christine Jones Brady
Keith Logan
Assemblywoman Rochelle Nguyen
Russell Marsh
John McCormick
Dr. Elizabeth Neighbors
Dr. Emily Salisbury
Tod Story
Dr. Tiffany Tyler-Garner

STAFF MEMBERS

Executive Director Victoria Gonzalez
Sherry Glick

OTHERS PRESENT:

Attorney Leonard Engel, Crime and Justice Institute
Heather Field, Governor's Finance Office
Mary-Sarah Kinner, Washoe County Sheriff's Office
Mindy McKay, Record Bureau Chief, Department of Public Safety
Valerie Meade, Crime and Justice Institute
Jennifer Noble, Washoe County District Attorney's Office
Barbara Pierce, Crime and Justice Institute
Michael Sherlock, Nevada Commission on Peace Officer Standards and Training
Abigail Strait, Crime and Justice Institute
Meagan Winn, Crime and Justice Institute

1. Call to Order / Roll Call

Justice James W. Hardesty, Chair: I'd like to welcome everybody to the Sentencing Commission Meeting. We have a robust agenda today, and so, we'll be here for a while together. We are also, of course, in a new setting for both the North and the South. Here in Carson City, we're in the Old Assembly Chambers, and in Las Vegas, you're in the Grant Sawyer Building, in the area next to the Governor's Office. But I understand, through the excellent work of our Executive Director, we have still managed to make our proceedings available to the public. Where else, but YouTube?

ROLL CALL

2. Public Comment (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Commission will impose a time limit of three minutes).

Chair Hardesty: I'll open up the meeting for public comment. Because of the length of our agenda, I'll limit public comment to three minutes. We'll have public comment at the beginning and again at the end of the meeting. Seeing none, I will now move on to the next agenda item.

3. Approval of the November 15, 2019 Minutes (For discussion and possible action)

Chair Hardesty: You have received a copy of the draft of the minutes of the November 15th meeting. Are there any edits, comments, or corrections to those minutes?

JUDGE FREEMAN MOVED TO APPROVE THE MINUTES OF THE NOVEMBER 15, 2019 MEETING OF THE NEVADA STATE SENTENCING COMMISSION.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY

Chair Hardesty: Before we get into item four, I would like to acknowledge the appointment of Assemblywoman Nguyen as the new Chairperson of the Advisory Commission on the Administration of Justice (ACAJ), our sister commission. Congratulations Assemblywoman. We are fortunate to have you as a member here and of course as Chair of the Advisory Commission. You'll be able to keep all of us in balance and coordinated, I hope.

Assemblywoman Nguyen: I don't know about that but thank you, I appreciate the confidence.

Chair Hardesty: Would you care to share with the Commission before we get into the agenda, just a brief overview of what the Advisory Commission has initially done and what your expectations are as Chair?

Assemblywoman Nguyen: I am very excited to be chair and I am very excited that we can work so closely together. I know that I have a very good relationship with Justice Hardesty as well as Vice Chair Callaway and I know that they also sit on the ACAJ. So, I think it will be a perfect blend that we are not doing things twice and we are able to coordinate our efforts and hopefully come up with some really good legislation. I know I'm curious to see kind of where we're going here with this commission and where the direction is so we're not doing any kind of overlap with ACAJ. I have some ideas and am still taking some initial polls with other members of ACAJ to kind of see what direction to take. But it is our intent in light of some of the substantial legislation that passed with Assembly Bill 236 (AB 236) to address some more qualitative work instead of quantity. So, working on some of the things that potentially need fixing or adjusting or modification to make more efficient and more effective. So, I look forward to that and look forward working with this commission as well. Thanks.

Chair Hardesty: Thank you Assemblywoman. Do any Commission members have any questions for Ms. Nguyen? All right. Then let's proceed. As you all know at our last meeting, we had proposed our selection for Executive Director, Victoria Gonzalez. And, the Governor has since appointed her and she has, she accepted that appointment. I am very grateful personally that she did that as I think you'll begin to see as the meeting develops, she has just been fantastic. She is absolutely a major contributor to the work of the Commission already. She was appointed on December the 9th. Since that time has been working on establishing and standing up the Department as well as getting it staffed, set, going through the trials and tribulations of state government trying to find offices, computers, steal chairs. Oh, I didn't say that, did I? And she has just been terrific. I have met with her weekly since her appointment. She has provided to me weekly reports on her progress and her work, and her meetings, and her engagement. I can tell you firsthand that she has really been a very busy director. I asked her if we could have, at the beginning of each meeting, a kind of a summary, an executive director report, that she could share with all of you so you that you'll see in each one of our meetings, some of the specifics and the activities that she's been involved in. So, welcome Ms. Gonzalez, and we look forward to your comment and your reports.

Victoria Gonzalez, Executive Director: Thank you Justice Hardesty and the Commission. I want to thank this commission again. I know I've taken the opportunity to email all of you individually and have also had the pleasure to be able to meet with some you at this point to become better acquainted and to discuss issues of the Commission in general and what each of you bring to the Commission individually. I will continue to thank you in the future and try not to gush too much, because this is such an honor, and I feel so lucky. And I think we're lucky to have each other and so I just want to thank you again, to the Commission, to Justice Hardesty.

4. Report from the Executive Director of the Department of Sentencing Policy and Overview of the Duties of the Department and the Commission (For discussion and possible action)

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

Director Gonzalez: I want to give you a quick overview of what my report will entail today. I will begin by going over the duties not only of the Department and of the Commission, which I know were reviewed at one point, at the beginning, when you started meeting, when the bill became effective October 1.

But I'm going to go over those briefly, again, and then, I will go over the activities of the Department and the Commission, since I've been appointed. And I will also give you an overview of the budget of the Department and the Commission. So, just a little bit of background information. As we know, the Department of Sentencing Policy was created by Assembly Bill 80 (AB 80), in the 2019 Legislative Session. Since Session has ended, those provisions in AB 80 have been codified into NRS 176.01323 and 176.01327. Those provisions were added to the existing provisions that provide for the Sentencing Commission.

As you can see here, I've specified what NRS 176.01323 provides, that as the Executive Director, I serve at the pleasure of the Sentencing Commission. While I was appointed by the Governor, my name was selected by this Commission, and I serve at your pleasure. The requirement for this position is that I be a licensed Attorney in Nevada, I devote my entire duties to the Department and the Commission, and I am authorized to employ or enter into contracts as needed to fulfill the duties of the Department and the Commission.

My duties, generally, are provided in NRS 176.01327. It is my duty to oversee the functions of the Department. I serve as the Executive Secretary of this Commission. I report to the Commission on the functions and related issues of the Department, which is what I'm doing in this presentation. I assist the Commission in determining necessary and appropriate recommendations in carrying out the responsibilities of the Department. And so, in future meetings, I anticipate I'll be bringing recommendations about certain decisions we would like to make in developing the Department. It is my duty to establish the budget for the Department, facilitate the collection and aggregation of data from courts, Departments of Corrections, Division of Parole and Probation, and the Department of Public Safety, and any other agency of criminal justice.

These are requirements specifically provided in AB 80. I'm also going to address the duties that have been put on this Commission pursuant to AB 236. And that will be on a separate slide. But that's just what came out of AB 80 for the Department and the Commission. It is also my duty to identify certain areas in criminal justice data that are not currently collected or shared within this State. As we know, one of the duties of the Commission and the Department is to help the Commission in making data-driven policy recommendations related to sentencing and corrections. And so, included in that is to, then, assess the data in the criminal justice systems in general throughout the State.

My duty is also to assist the Commission in preparing and submitting a comprehensive report. This is just the report that's provided in AB 80. There is a slide I'll present, soon, about the

deliverables in general that are supposed to come out of this Commission, but AB 80 provided for this specific, comprehensive report. There is an additional report that the Commission's also required to prepare and submit. And the Department will assist the Commission in doing that. Additionally, I need to take any other actions necessary to carry out powers and duties of this Commission.

Just for a comparison of where we are now, for some of you that are familiar with the fact that we have moved from the Legislative Branch, now over to the Executive Branch, just a little background information. The Sentencing Commission and ACAJ have gone through various forms. But in our current form, the Sentencing Commission was established with Senate Bill 451 (SB 451), in 2017. That bill established the Commission within the Legislative Branch. The Commission was supported by the staff of LCB, and those provisions were codified in 176.0133 to 176.0139. AB 80 made some of these changes, as we are aware.

AB 80 established the Department of Sentencing Policy, put the Commission within the Department of Sentencing Policy, and amended the membership of Commission slightly.

It amended the membership of the Commission by removing the Attorney General and the State Public Defender and instead, added a representative from the Washoe Public Defender and the Clark County Public Defender. And then, finally, there was this requirement added in AB 80 for the Commission that required the Commission to meet by September 1 of each odd-numbered year.

Here are the duties of the Commission, which I know the Commission is familiar with. I won't go over all of these. I provided these in the materials in advance, and I know that you received this information at a previous meeting. But we know that the duties are, in general, to make data-driven policy recommendations to the Legislature related to sentencing and corrections. And this is the way we can do that, by evaluating these various parameters within the criminal justice system in this State.

And then, the duty that was added there at the bottom of – on the left-hand column of 176.0134 was that, in addition to – to the other duties related to making recommendations for sentencing policy, is to provide recommendations to me, concerning the administration of the Department. Now that the Commission is housed in the Department, we have that relationship where those recommendations – that's another duty, the Commission is to provide recommendations to me, in terms of the Department.

AB 236, on the right-hand column, again, I just put some bullet points there of specifically what applies to the Sentencing Commission and that there would – therefore would apply to the Department of Sentencing Policy, as we are in place to help the Commission carry out its duties. So, generally, as we can see, AB 236 requires this Commission to track and assess the outcomes of the enactment of AB 236. The Commission is going to do that, with the

Department's support, by collecting data from three agencies.

So, the Department of Corrections, the Division of Probation and Parole of the Department of Public Safety, and Central Repository, are all required to submit very specific data elements to the Department and then to the Commission, to assist in determining – tracking and assessing the outcomes from the enactment of AB 236. And as you can see in your agenda, we will go into much more detail about that, later, where we're at in that process, what those requirements are.

Additionally, the Commission is required to track and assess outcomes with respect to savings and reinvestment. As we know, AB 236 is in essence the Justice Reinvestment Act of Nevada. It was a result of justice reinvestment from ACAJ, and so, that is one of the duties on this Commission, is in a sense to provide oversight in tracking those savings and reinvestment and how justice reinvestment is going. The Commission is also required to identify gaps in the criminal justice data, and that's where that section has been codified. And then, looking for areas to identify gaps.

So, that's something that we'll be looking at when – that would be included in a report as well, that comes out of this Commission. As we are out assessing what data we are able to collect, we'll also be assessing what gaps in the system there are, statewide – in the systems there are, statewide. The Commission is required to identify a formula to calculate costs avoided. And, finally, the Commission is required to provide staff to the Nevada Justice Reinvestment Coordinating Council and receive recommendations from the Council. As you can see in your agenda, I will also go into detail about that as well, later.

Justice Hardesty asked me to identify the deliverables of this Commission, all in one slide, which was good for me, too, as we all calendar things that we – our goals and our – that we're working towards. So, these deliverables come out of AB 80 and AB 236. And I've also put the section of NRS along with the bill Section, if you would like to refer to that specific language. Just in general, there is a comprehensive report of the Commission required by January 1 of each odd-number year, to the Legislature. I'm calling it the AB 236 Report, which is separate from the comprehensive reports. And so, that is due to the Legislature the second week of Session, to the Governor, the Legislature, and the Nevada Supreme Court. This is a specific statement of account costs avoided that the Commission will be required to submit. That is due December 1 of each fiscal year, to the Governor and the IFC.

And then, finally, this Commission is required to prepare and submit a report of projected amounts of costs avoided and recommendations for reinvestment. And that's due August 1 of each even-numbered year. So, now, I'll move on to the activities of the Department, since I've been appointed. Since I've been appointed, as Justice Hardesty mentioned, I have been in regular communication with him.

So that you know where we are physically housed, the Governor's Finance Office (GFO) has been very generous to provide us some vacant office space that they have in their building right now, and we are very appreciative, not only of the office space they provided. They provided an infrastructure to help us get started, because we were starting from nothing. And they've been very helpful in answering our questions and giving us the support, we need, to get up and running. And we're very appreciative of them. Since I've been appointed, I was tasked with finding us office space that fit within our budget, which I'll provide that – some of the information about those numbers. But we had a very specific amount of money the Department has been allocated for rent. And so, I had been tasked with looking for space that would help us use that money responsibly and that would also house the Department properly.

And so, the office space I've secured is over at 625 Fairview, we're in Suite 121. It's a very cozy 500 square feet, I think we're going to fit in there very nicely. It's a good starter home I think for the Department. And so, I just secured that. Right now, we are on a monthly lease for that, and we are working on getting the infrastructure. We can't move into that office space at this point. It needs to be wired for internet and for telephones, because we need to be able to access the State systems, and so, they need to put the internet in place and then put another system in place that we can access the State systems from that office space. So, I believe we're still a few weeks out from moving in there. But we have the space secured, which is nice. We know where we're going to live.

Additionally, I've been building the infrastructure of the Department in general. That means doing everything from making sure we have Microsoft Office, to figuring out where -- how to run our HR, how we're going to – trying to get our website up and running. Just so you know, that is in production right now. I just got the email from I.T. and are going to be at sentencing.nv.gov. Both the Department and the Commission information will all be there, and so, that will be up soon, and I will email the Commission as soon as that is live. And you'll be able to access now all the materials and the agendas, and our reports will go up there, and then, other information about the Department.

As many of you know, I've been meeting with members of this Commission. I've also been meeting with stakeholders in the criminal justice system that are important for fulfilling the duties of the Department and the Commission. I really look forward to getting to know every aspect of the criminal justice system in Nevada, and it's been a real privilege to meet with everybody so far. And I look forward to meeting with everybody else. Additionally, you received the email from Justice Hardesty related to the data inventory. And so, I've had an opportunity to meet with different agencies and stakeholders in discussing just what types of data you collect, what issues you face in collecting that data.

And then, finally, I've been in regular communications with the Crime and Justice Institute (CJI). Because we are so tightly related to AB 236, we are part of the implementation plan of AB 236. And so, CJI – I had the pleasure of working with them when I was working with the

ACAJ, last Interim, but now, I get to work with them very intimately. And they are not only helping us in getting the Commission up and running, over here in the Executive Branch, but also helping the Department get up and running, and then, helping us throughout this implementation process for all of the requirements that are tasked on this Commission.

So, finally, on to the budget of the Department and the Commission. So, this is something new for this Commission, and then, something new for a lot of us. I'm going to refer to the materials that I provided to you in advance, just so you have a general snapshot of where we're at with the budget. Just in general, this is just year one, what I have here. So, year 1, right now, we have appropriated \$404,492. Year 2, it's going to be about \$488,000. That amount of money is to get the Department up and running and keep it going and then, also fund this Commission.

The Department has been allocated four staff, the Executive Director, me, a Staff Attorney, and two Administrative Assistants. I recently hired, as I notified you by email, I recently hired one of the Administrative Assistants, Sherry Glick, who started on February 10th. She is already a huge asset to the Department. She's enthusiastic, she is a go-getter, and she is ready for this adventure, to build a new department, which this is not a task for the – the weak – for anyone who isn't up for an adventure. And so, I'm very appreciative to have her on staff, and she hit the ground running and has helped get this meeting in place today as well.

I have not hired anyone else at this point, because we are temporarily housed in GFO. Sherry and I are sharing an office, which we appreciate just having a place to live, but Sherry and I are sharing an office at the GFO right now. So, we don't physically have the space to put anybody. After we have everything in place over at the new office space, I will then start the job recruiting for the Staff Attorney position and for the other Administrative Assistant that we've been appropriated. I have already purchased furniture for the Department.

We were allocated, in these budget items, under – I believe it's under Equipment. So, that amount there, that's the \$10,894, that amount was appropriated specifically to buy new furniture for the office space. And so, I was able to buy enough desks and bookshelves and a filing cabinet, just to get us started with, in that amount, and I actually have purchased those through Silver State Industries. And so, I'm excited to work with other agencies within the State. And so, that is one of our purchases.

The staff of GFO and the Department of Public Safety (DPS) are providing us fiscal support we need, that they are helping us actually process our finances. Neither I, nor Sherry, fully have the experience needed to get all of that, and we don't have enough staff to have the internal controls in order to process transactions and financial activities of our Department to the point. So, DPS and GFO have been very helpful in providing that support to us. But – so, what GFO and DPS did, in advance, was, they purchased our computers for us. So, by the time I showed up, the computers were already in place and ready to go. And they used that –

and they used our funds that were allocated.

And then, in addition, AB 80 became effective on October 1. I was appointed December 9th, and so, we are going to have some salary savings. And so, those savings will help us make some additional purchases that will just help the – that – and unexpected costs that come with getting an office up and running. For example, getting the wiring set up for this office is an expense, and so, we're going to be able to use salary savings for that. We do not have specific funds – a lot of specific funds allocated to the actual administration of the meetings. And so, that's one thing I wanted to mention.

Not only are we now housed in the Executive Branch, but by being housed in the Executive Branch, we get to use this amazing room and the conference room in Las Vegas, without cost. If we were to go over to the LCB Building, we would be charged an hourly rate to use those facilities, and we do not have that line item in our budget. In order to make sure that I am being responsible with the budget the Department has, that's why I'll make decisions about how – where we're going to meet and how we're going to administer the meetings, based on that. And as I – I had mentioned, too, when we sent out the materials, we were still trying to get a handle on our office supplies and what we can afford.

And so, support that the Commission can provide, in printing off your materials or going electronic, will help us, as we get up and running. And then, we hope to provide the full service at some point to the Commission. But those salary savings are really going to help us in the first year to get the Department up and running. And finally, related to the budget, starting February – so, February 27th, which is next week, is the budget kick-off. So, the Department's already going to be learning about how to build a budget, based on the budget we were provided. And so, we'll be going through that process, starting February 27th, as we start learning – already trying to reflect what we have right now and start to build our budget for the next Legislative Session.

And so, that is all I have. I'd be happy to answer any questions the Commission has of me.

Chair Hardesty: Any questions for Director Gonzalez? Would appear not. Very thorough report. And thank you, Ms. Gonzalez. We'll proceed with the next agenda item.

5. Presentation on the Role of the Crime and Justice Institute in Implementation of Assembly Bill No. 236 (2019) (For discussion and possible action)

- A. Plan of Implementation of Assembly Bill No. 236 (2019)
- B. Discussion of article, *Justice Reinvestment and the Justice Reinvestment Initiative: Impractical Vision and Oversold Program*, by William J. Sabol and Miranda L. Baumann

C. Discussion of response to article

Len Engel, Director of Policy and Campaigns, Crime and Justice Institute

Barbara Pierce, Director of Justice Initiatives, Crime and Justice Institute

Abigail Strait, Senior Policy Analyst, Crime and Justice Institute

Chair Hardesty: Let's go on to agenda item five. As you know, AB 236 came about as a result of our collaborative effort and the staff support that we received from the Justice Reinvestment work and the work of the CJI, with funding from the Department of Justice's Bureau of Justice Assistance and The Pew Charitable Trusts. After the Legislative Session concluded, Governor Sisolak, Majority Leader Cannizzaro, and Speaker Frierson and I were invited to send a letter to the Department of Justice requesting assistance for Nevada, to implement various aspects of AB 236. I was really pleased to learn, just before October 1st, that we had been approved.

And we now have the benefit of the CJI and staff and technical assistance, to assist the State as we work through the implementation of the various issues that have been addressed in AB 236. As you know, this was the adoption phase, if you will, the legislative phase, was a very, very expensive proposition, with all of the data work that had been done. Well over \$1 million in assistance had been provided to the State, and I think we are going to see the benefit, going forward, of the staff assistance from the CJI.

And I want to extend publicly my thanks and appreciation to the Department of Justice's Bureau of Justice Assistance, the Pew Charitable Trust, and the extraordinary staff of the CJI, for their assistance to Nevada. CJI has, since October 1st, been working on an initial statewide implementation plan for consideration by this Commission. They've been working with agencies, meeting directly with agencies throughout the State, responsible for AB 236 implementation, on agency-specific plans, and have been doing a lot of work looking at AB 236 policies and deliverables.

You're going to meet two people here that we probably will see on a pretty regular basis. Barbara Pierce is the leading staff member of CJI to lead the implementation effort, and Abby Strait is her colleague, who will also be assisting in the CJI implementation effort. So, I'd like to introduce both ladies and ask them to join us. They will be making a presentation to all of us and will be providing an overview of the introduction to the implementation plan, from their perspective, and the kinds of assistance that we might look forward to. Ms. Pierce?

Barbara Pierce: Thank you, Justice Hardesty. As Justice Hardesty said, I'm Barbara Pierce. I'm the Director of Justice Initiatives at CJI, and I have Abby Strait here with me. Abby is leading up the work of your state agencies, and I'm heading up the work with the Commission and the Department of Sentencing Policy. We also have two of our colleagues here today with us, Valerie Meade and Meagan Winn. They're doing a lot of the work with us as well, and you heard Len Engel joining by phone. He's our Director of Policy and Campaigns.

So, I just wanted to briefly talk about Justice Reinvestment, as a review. So, Justice Reinvestment is a public-private partnership to really assist states who are working on justice system reform. The process involves, as you know, the use of data as well as qualitative assessment. And what – the point is to identify opportunities at each decision point in the criminal justice system and when we do something different and get better outcomes. Justice Reinvestment also applies research and best practices to actually implement the new policies, with the aim of reducing recidivism, shifting resources to more effective public safety strategies.

And then, as you know, because it's part of your charge, Justice Reinvestment also utilizes data to determine outcomes and impacts, obviously, as a result of implementing the policies. So, really quick, there are two phases of Justice Reinvestment. The first phase, as you see in white on the screen, that is called Phase I. And during this time, technical assistance providers work with the stakeholders, analyzing data, conducting a system assessment, using findings to develop policy, providing assistance during the legislative process. And so, you know, with the passage of AB 236, we completed Phase I. And we're now here to talk about Phase II, which is the implementation and sustainability of your policies.

I'm just going to talk really quick about what Phase II looks like. Abby's going to get into more detail on the actual implementation plan and the work to date. So, this slide is my explanation of what the difference between the two phases, implementation versus policy. I'm not going to read it to you, because you can see it on there. But basically, there's a lot of fanfare around the passage of criminal justice legislation, and rightly so, because it's a big deal. But the passage of the bill does not mean that the policies get implemented and implemented well. And implementation's a really long process, and I think the agency has – excuse me – can tell you implementation is really hard.

So, that's what we're here to talk about. Just briefly, these are the states that we have done implementation technical assistance in. There are some groupings here, but the states are vastly different, and we've learned a lot from working in all of them. Just for a bit of history, it used to be that Justice Reinvestment was really just that policy development and legislative phase, and then about seven years ago, the Department of Justice really recognized that implementation matters, and it's not just a magic light switch, when you pass legislation. And so, they decided to fund implementation technical assistance delivery.

So, our assistance varies based on the states' needs. So, there's just some general things that we typically do with states. It looks very different in each place. Justice Hardesty mentioned that we work with agencies and the state on implementation planning. That's really just in recognition that everybody who's responsible for implementation has a lot on their plate, and so, it's just something that we can help with. So, I just want to make sure that people aren't missing the steps that are involved in implementation.

We do a lot of work around training, and we do that in different ways. Sometimes it's just simply putting together educational materials on what the new legislative requirements are and what it means to an agency. We often train agency staff on evidence-based practices. Our preferred method of training is "Train the Trainer". We're not going to be here forever. And so, we want that to be sustainable. So, we most – we mostly use a "Train the Trainer" model,

again, so that can be sustained over time. And then, sometimes we have trainings that we don't offer or that are specially required in the legislation. And so, we help identify either instructors or curriculums as well.

We also do a lot of work with agencies on their own, internal agency policies. Sometimes we're asked to take a look – if somebody has to institute graduated sanctions, we'll do research on what other states are doing, to help the department or the agency write their own policies. Sometimes we help draft. Sometimes we help review. We're really here just for extra staff support. And then, Justice Hardesty's favorite thing, the data and measuring impacts. And I know you all have an interest in that. We are here to help whatever you need, to figure out how you're going to measure all the impacts of the policies.

The important part, as you all know, is that we also communicate the results of what's happening. And so, that can be either through inner reports, press releases, articles for agencies, topical briefs, and so, whatever we can do to support you in sort of promoting the progress that you're making in the State. And lastly, we assist with Reinvestment Strategies. Those can be as simple as helping you do research on sort of what the needs are in the State, that kind of thing. So, it's really at your request. So, overall, I said, we're here to provide extra staff support. Our assistance is available for the next year and a-half, at least, probably through September 2021.

And I'm going to turn it over to Abby, now, to talk more in depth about implementation.

Abby Strait: So, as Barbara was mentioning, implementation happens in stages. Believe it or not, there are folks who get their Ph.D.'s in implementation science, and one thing they have discovered is that, as you can see on the slide, implementation doesn't just happen overnight, and it's not just a one-step process. It happens over time and with different stages.

You know, an example of – maybe incorrect way of thinking about this would be an agency lead writing out a new policy and emailing it to staff, and then, wondering why staff aren't following the policy. You know, if staff haven't had training or communication about the new changes, if they haven't gotten any sort of follow-up on supervisors, about how they should be doing something or checking in on if they're doing it correctly, there's no way that they're going to be able to do that. So, with that in mind, these sorts of stages are important to thinking about not just doing it, but doing it well, and how do we get to that point.

So, just to briefly kind of go through these stages, the first one is exploration. That's when you're deciding what you need and putting a plan in place and figuring out what you want to do and making a timeline for that. The next is installation. That's when you're preparing. So, you're not doing it yet, but you're getting ready. So, you're training staff, if you need to. You're developing some internal policies, figuring out what resources are needed, and figuring out how you're going to measure what you're doing. Next is initial implementation. This is the go-live or the first sort of effective date. So, this is when you're just starting to do it, its initial roll-out, writing some coaching to staff, monitoring how things are going with the data and making adjustments as needed.

And then, we kind of get to full implementation, which is when we are to business as usual. I think of these two ones, initial implementation versus full implementation, as doing it versus doing it well. In full implementation, this is business as usual. We're doing things as we normally would, and we're also monitoring our quality and adherence to policy, and we're continuing as we go through, to coach staff. I think one thing to keep in mind is that, throughout all of this, communication is really important. It's important that people who are responsible for implementing the new policy and practice know why they're doing what they're doing and to be aware of the successes that are resulting from their work.

So, it's crucial to communicate both what's happening with – to staff and also to the public, because full implementation, I think, one of the important things that come along with all this research is, it can take two to four years. So, it's not an overnight thing. It takes a lot of time. And so, it's important to communicate to the public what's happening, what work is going on, what success stories there are, and it's important to make sure that the progress is being shown, because a lack of communication can be interpreted as, 'Nothing's happening, no one is doing anything, what is even going on here?'

So, it's important to make sure that we're communicating throughout, what we're doing, why, and what successes are happening. I think this graphic makes it look pretty simple and neat, but, of course, it's not. Implementation is messier than that, and, like I said, it takes time. So, I just want to point out that sustainable implementation requires time and attention to things like organizational culture and changes, and that takes a lot of time and attention to do.

I just wanted to share some of the other lessons we've learned from states who have gone through similar JRI changes as you all are going through. The first one I think is the – one of the most important ones is that frequent cross-agency communication is really essential. The actions one agency takes often impacts other agencies. So, it's important to meet regularly and communicate those changes and coordinate implementation.

It's also helpful to establish relationships and a 'we're in this together mentality'. That makes it easier to work together when issues or barriers arise and also to avoid any – any finger pointing, but to form relation – positive relationships. And part of this also is, you know, communicating within your agency and to the public what's going on. You know, what's our plan for implementation, and how is this going to impact you.

The next one is that, engagement of all stakeholders is important. Related to what I just was talking about, but engaging all stakeholders is important, to make sure these policies are implemented well and sustainably and working together to kind of identify areas of concern or challenges and figure out ways to address them. Next is using data to identify areas of progress or concern. If you remember from my last slide, one of the steps for moving from doing it to doing it well is looking at the data, showing what we're doing, and to use that to make adjustments and to figure out, you know, what's going well and celebrate those successes and then, figure out also, what are things that maybe aren't going the way we attended or aren't going well, and then, figuring out how to make adjustments, based on that.

Next is ongoing staff training and quality assurance. It's not just enough to do, you know, one, quick memo or one training, but to make sure that we are doing frequent communication in

various ways and trainings as well, along with coaching, to make sure staff understand what they need to do and how to do it. And then, we must also check back in with quality assurance measures, regularly looking at the data. It takes time to build a new habit, and it's not just going to – even if people understand what they need to do, they can't just maybe change what they're doing, overnight. So, it's important to check back in with quality assurance and coaching, to make sure people know what they're doing and are prepared to do that.

And then, finally, along with all of this communication, is sharing successes, both big and small. It's important to celebrate successes within an agency, to celebrate what people have done and to appreciate their work, but also to celebrate other stakeholders and the public. Negative stories are going to always appear at some point, and comprehensive reform and outcome measures like recidivism can take a lot of time to come up. So, in the meantime, it's important to share success stories and to show the public that you're working hard and also combat negative stories.

So, one thing – and that first step of the arrow I showed you earlier was creating a plan. So, you have, in your folders - this grid is the implementation plan for AB 236. This is really important for any sort of – implementing anything, but especially with something as comprehensive and with as many pieces as AB 236 has. These aren't meant to be static. It's helpful to add and adjust, as you go along, to track progress. So, what have we done already, and what new things are coming up, that we need to add, and we need to do? So, the plan that you have in your packet is the one that was submitted to BJA, when we were requesting technical – requesting funding for this assistance. But, like I said, it's the – it's a living document. So, it's been adjusted and added to, as we go.

So, with each of these sections, we've kind of laid out the key components. So, what does this section require? What action is required? Also, the agency responsible, which can be, you know, one or multiple agencies, who is doing this? Who's responsible? Next is possible CJI technical assistance. What steps need to happen? How can CJI help? And then, the next is a timeline and status. What needs to happen first, and what – and what's the timeline for that? This is also a place to kind of mark progress and figure out what has been accomplished yet and what still needs to be accomplished.

As part of our technical assistance, we are working with agencies involved in implementing AB 236. We can work with any agency responsible for implementing any part of legislation, as part of our assistance. And so, next, Barbara and I are gonna kind of go through, in a little bit more detail, a couple of these agencies, just to give an example of what technical assistance for implementation from us can look like.

So, first, I'll start with Parole and Probation (P&P). So, we've been working on them with Sections of 236 that apply – that impact them most, some of which are on the screen in front of you. P&P has created working groups for each of these main sections and has been working with those working groups to support them as they revise policies and practices and answer questions about 236. So, firstly – the first one is training for Parole and Probation Officers. So, it's ensuring that they are prepared to train their staff on the trainings required in 236, some of which we can provide directly, as Barbara mentioned, through a "Train the Trainer" model.

But it also means training staff on 236 in general and the changes in policy and practice that are coming from other parts of the legislation.

Next is the graduated sanctions and response to violations. This working group is revising policies and creating a graduated sanctions matrix. And we've been working to support this by helping the group resolve questions about 236 as well as providing examples of other states' graduated needs assessment and case plan. This group is creating case plans for P&P and a case plan policy. Similar to graduated sanctions, we're working with that group to help resolve any questions about 236 but also develop policies about case planning and draft case plans. And, again, with that, providing examples from other states of what case plans can look like and how states have used that.

And then, within all of this is performance metric and quality assurance. As will be discussed later on in the agenda, CJI and Executive Director Gonzalez have been working with agencies to ensure they are prepared to report data on 236. And kind of along with that, in addition to that, we'll be working with each of P&P's working groups as they sort of establish the new policies and practices, to figure out how do you measure what's being done. How do you measure if staff are – what staff are doing and how that's going? And that – kind of help identify what things are being done well, and what things might need to be added or adjusted, that aren't.

Next as an example, I have the Department of Corrections (DOC). Again, these are just some of the things they're working on. First is training for staff. Similar to P&P, this means both trainings required of them in the legislation, again, some of which we can provide through a "Train the Trainer" model, and some of which is training for staff on the changes overall and how those are going to impact their daily work. Next is a risk and needs assessment. DOC has already been using Nevada Risk Assessment System (NRAS), but we're working on the next step of making sure they have case plans built around the results. They have a training set up on case plans, coming later, but we'll be helping them with some initial training on what case planning can look like, what other states have done, and what case planning best practices are, and what lessons they can learn from that.

Next is medical release. From DOC's data, these changes won't impact a ton of people, numbers wise, but we're talking with them about how to prepare for that. Then, for reentry, this is a pretty big chunk. DOC has been working with individuals – working to make sure that people being released have all the necessary materials, and once that and the other changes are in place, we'll work with them to help support education efforts. So, training staff as well – trainings for staff as well as memos and communication internally and with other partner agencies, to make sure that everyone knows what's happening and what's being changed.

And finally, I think this – I keep saying performance metrics, because I think it's – I think it's really important to remember that it's not just saying we're doing this but an important part of this is also measuring what we're doing and making sure it's having the impact we want. So, again, up here is performance measurement. So, once the policies and practices are rolled out, we'll work with DOC to measure implementation of the new policies and make sure – make any necessary tweaks that are resulting from that.

So, I'll now turn it back over to Barbara, to talk some about implementation assistance for the Sentencing Commission and the Department of Sentencing Policy.

Ms. Pierce: Great, thank you, Abby. So, just to wrap up with some description of the types of work that we'll be doing with your state, as you know – as you know, there are several requirements for the Commission and also for the Department of Sentencing Policy in AB 236 and 80. We've been working and will continue to work with both entities. On performance measures, you'll hear from Executive Director Gonzalez, and I will talk more in depth about the work that we've started at the request of Justice Hardesty.

In some states, the legislation does not include a long list of performance measures. So, we do work with agencies, a lot of times, on picking measures, defining what they are, and figuring out how to calculate them. In Nevada, we're going to be working with the agencies to really compile their data and report it, so that you all can show off all the progress that's being done in the State. In terms of the avoided costs in reinvestment, AB 236, as you know, charges the Commission with calculating costs avoided as a result of implementation of these policy changes and also making recommendations. We'll support the Commission in the development of that formula if needed.

We can also do research for the Commission, to help with recommendations on the use of dollars, if that's helpful. With the local Council, we'll be available for things such as conducting research for the Council members on topics of interest to them, providing support as directed by the Chair of the Council, this group, or Executive Director Gonzalez. And then, I think in the coming year, all those required reports are going to be really fun to work on. You have a number of them that will be due in the next year. We typically provide assistance on compiling those reports. We've seen and done that in a lot of different states. So, we can provide you with examples, and you can decide how you want to display the information.

And we can also help with communications around those reports if needed. And so, I think that wraps up our presentation. Our goal is to always make implementation fun and cool. So, hopefully, you'll help us do that. I can tell you're all excited about implementation. So, I'm going to turn it back to Justice Hardesty.

Chair Hardesty: Yes. I'd like to circle back and ask – Commission members, I'm referring to an attachment in your materials, if you can go to it. It's called "The Nevada 2019 JRI Implementation Plan, Effective July 1, 2020", that Ms. Strait referred to in her remarks. And I think it would be helpful, Ms. Strait, if you could identify how this was constructed. It would be worthwhile, I think. As you mentioned, this is a dynamic document. It will be subject to change and reviewed periodically. But I think it is helpful to catalog all of the expectations from the bill, and then talk about those components, which agency has responsibility, and so forth.

So, I wonder if you would share with the Commission, briefly, how this was constructed. I don't want people to take offense that this is a plan that has been foisted on them. It's a suggestion. It's a recommendation, for now. And I know that Commission members probably haven't had the time to get this overview and the time to think through some of the specifics. We'll talk a little bit about that under this agenda item and a few other agenda items. But I think, from my perspective as Chair, at our next meeting, we might want to get more specific, and then, I

would hope that the Commission would approve this as a working plan and keep it in its dynamic nature, so that you and our staff can continue to work through it.

But maybe you could share with the Commission just a little bit about how it was constructed, some specifics here, and then, we'll see if there are any questions of Commission members for you or Ms. Pierce.

Ms. Strait: So, just to echo what you said, this is not meant to be us telling you what to do. I would say that our approach, as technical assistance providers, is that you all are the expert in your state. We're here to provide support and assistance, to add capacity, to help with planning or with looking at what has worked well in other states. But we're not here to tell you what to do. As part of applying for funding for assistance from BJA, we need to submit a plan, to talk about what could be happening with implementation.

But, yes, as I said, it's not meant to be locking you all into something or saying this is what everyone has to do. It's meant to be a start of a plan of how this can be – what are the first steps to doing this. How can we lay out what we're thinking about? So, how we create this is, we look at the legislation, and we walk through, you know, filling out these first two columns of the policy and the key components and the agency responsible. I've just taken from – from the legislation, just going through the legislation and creating this from there.

Some of the – the agencies responsible are ones that are, you know, maybe not directly named but are sort of implied or might have some sort of supporting role in there. We put that in there to kind of help us make sure that we're talking to all the necessary people and that there's not someone who's maybe implied but not directly stated, that we should also be talking to. And then, the two other columns are sort of brainstorming of things that we think would be helpful to do, and – but, as I said, those change as we go, as we talk to agencies and figure out, you know, what have we already been working on, you know, what other barriers are there that we didn't know about, that need to be added or adjustments to make, once we hit the ground running.

I mean, and then, as I said, the timeline status column is – we fill that out, as we go, you know, checking off what's been done and listing out what are the things that are in progress or that we're working on currently. Anything else that you want to say about how those are created, but that's – does that answer the question?

Chair Hardesty: Yes, I believe so, for now. Before we move on to another portion of this agenda item, and, by the way, a number of things that were raised in their presentation will come up again in other agenda items here, in the meeting. So, everybody'll have an opportunity to question our technical assistance providers in greater detail, as we continue to work through the agenda.

Dr. Tiffany Tyler-Garner: I appreciate the focus on return on investment as well as the discussion around the implementation, how it will require significant cross-agency communication, as well as stakeholder engagement. And as I review the implementation plan, I am noting things like the item on page six, where it says that NDOC will ensure the individual has a photo ID, in partnership with Parole and Probation. Or on page nine, where it indicates

that we will ensure that POST training now includes a component on behavioral health for law enforcement.

If this is indeed the plan, I'm wondering, will there be a larger – will there be a stakeholder – multiple stakeholders' meetings, and have we already began laying a framework for our folks for work across agencies, to meet some of the things that are laid out in this very detailed plan?

Ms. Strait: There has been some of that happening already, of some smaller groups of certain agencies, working together to talk about the parts that impact them both. But that's the reason that we want to continue doing as we go on, to have those groups that been meeting continue to meet, but also expand that, and make sure that everybody who needs to be at the table is at the table. I think the small groups that have happened so far is partially because it's been getting very into the nitty-gritty. So, having a small group of people from a couple different agencies has been helpful to work through that. But it's something that I think that is important to continue on.

And I think that agencies such as this can also be a place to do that more formally, right? Taking it out of just the nitty-gritty work group session, but also to make sure that that communication's happening on a more formal and larger sense. I think the oversight groups we've seen in past states that are especially successful are the ones that allow that – that make space for that, that have time for agencies to report and talk to each other about what they're working on, and to have some time to talk together, to report what they're doing, and to say, 'This is how – what – this is going to impact you. What do you think about this? What's your opinion on this?'

Ms. Pierce: I just also wanted to add directly to your question, in a couple states, there have been these informal groups who have formed. In the state of Utah, they had a group that was informal, and then, they made it a little bit more formal. It's all the people who were responsible for implementation. They would get in a room. I think it was once a month.

Then as they got going, they met less. But that proved to be very helpful for them. The state of South Dakota did something similar with their juvenile reforms, where they literally got together every week. And then, it was every two weeks. And again, they found that process really valuable, because everything that one agency does impacts another, and they were able to work things out before they put things in place that would've had a negative impact.

Dr. Tyler-Garner: So, in follow-up, may I ask, what is the specific role of this Commission in supporting this effort, particularly because there are a number of stakeholders noted in the plan that aren't reflected here? It probably will require some kind of detailed coordination, or someone serving as an intermediary. Are we the intermediary? How does that work?

Chair Hardesty: It is the responsibility of this Commission to oversee and monitor and, where possible, contribute to the progress of what you've been talking about. So, I anticipate, as you will see later in this agenda, in fact, reports from all the various agencies, which will monitor this – provide to this Commission their progress.

As you know, we scheduled dates for the Commission for the rest of this year, so we all have targets that we're aimed at. And those reports will be furnished to us, both by our staff and by the CJI staff and directly from the agencies involved. And you're going to hear, even today, problem areas that have already been identified, in a host of areas. To some of us directly involved in the criminal justice system, it will not come as a surprise. I think some of it will be a surprise, and hopefully, as we work through this, we'll begin to identify impediments to what we're able to do, what we're able to capture. And those impediments, I think, will be something that the Commission will need to tell the Legislature about in our reports, at year end.

I don't know if that's helpful, but I think that's the charge of the Commission, Doctor, and what I'm expecting our staff and CJI to assist us with.

Dr. Tyler-Garner: Thank you. That is helpful. And then, my one follow-up – one other question is, I like the focus on the return on investment, and I'm wondering what are some of the models or formulas that other states are using, and have we proposed one in particular, a framework for that? And then, what are we doing around the fidelity of the implementation?

Chair Hardesty: So, Doctor, thank you very much for that question. And we're all anxious to get to that point in the process. I've asked CJI to make a presentation to us, at our next meeting, that provides alternative approaches that are being used in other jurisdictions. And we're all kind of putting our heads together as individuals and as Commission members, to determine what is the best formula for capturing those expectations throughout the year. So, the Commission will be looking at a number of things that they have identified here. What are our requirements, our deliverables? What are the steps that are needed by our agencies, to implement, to the extent that they can, the measures identified in the bill, and identify the things that they're not able to do, and why?

From that, of course, we want to be able to develop a formula, and there's a few states that have adopted formulas that'll give us examples, as we continue to work through that. And we'll get presentations of those examples at our next meeting. We could've done that today, but I thought it was premature, given some other things that we wanted to communicate. And, frankly, I don't know that even CJI's staff has worked through all of those alternatives and what the upside and downside might be. So, this'll be a process.

You know, the bill goes into effect July 1st, so, we're in the embryonic stage, if you will, of building these various structures. But they're so vital to what happens later this year. As you know, many of these measures will only be in effect for six months. Our report is due, frankly, after only six months of operations, with most of this. So, we're really spending most of our time, I think, this year, getting our formulas scheduled, getting our approaches scheduled, and identifying what we can report and what can't be reported.

Chuck Callaway, Vice Chair: I just have a very quick question. In particular, slide number 10 is of very much interest to me in the lessons learned from other states. I just got back from a trip to Washington, DC, to the Major County Sheriffs' Meeting. A few months prior, I went to Major City Chiefs. And in listening and talking to law enforcement leaders from around the country, in states such as Utah or Louisiana, where these Criminal Justice Reforms have been implemented, but also in California, where Proposition 47 went into effect, several years ago,

and many of the elements of Proposition 47 mirror the Criminal Justice Reform recommendations from CJI.

So, now that some of these other states are into this, the concerns I hear from law enforcement is, increases in property crime that they're seeing, repeat offenders that are victimizing, that would have been still incarcerated, had they not been released early, under some of these measures, and they're out victimizing. Substance abuse increase in substance abuse, where in some cases, use of heroin, for example, is, for lack of a better term, being ignored by law enforcement, because it's been reduced to a misdemeanor offense. And officers in those jurisdictions, right, wrong, or indifferent, believe they have better things to do than to try to enforce misdemeanor offenses – the – what the criminal justice system has turned into Misdemeanor offenses.

And so, my question is this. We talk in these slides in your presentation about celebrating successes. And you did mention identifying failures. And I think the failures, to me, are critically important. And I'm wondering, in these other states, now that they're several years ahead of us, what failures they've identified and what CJI, in particular, is doing to help fix those failures. Are you urging the Legislature in those states to go back and tweak their laws, to try to fix that? Or what are you seeing from your side, in these other states?

Ms. Pierce: Thank you for that question. So, I'm going to just pick off the easiest example. So, one of the things that we try to do, around implementation in particular, and on the policy side, is – so, for instance, if there are a lot of arrests for substance use, things that are driven by substance use, we also want to see in place, and you all want to in place, more treatment in our communities. Where we see some failures on that, where substance abuse continues to drive some crimes, we haven't seen this corresponding effort to make sure that we all follow through on our promise that we're going to have community-based treatment.

That's pretty much the – the primary example that I can – that I can put in place. We're in states for a couple years, doing implementation work it doesn't mean that we go away. So, in states that we haven't worked with for a couple of years we still try to make that case where if you're going to have one policy lever, make sure you have the answer and are truly following through on that. I feel, in some ways, that's the – the best we can do, because we don't work in these states. But I really appreciate you pointing out that we have to make sure if we talk about holding people accountable now in the community, we have to make sure we're actually doing that and it's important to put those things on the table and have discussions. If something is truly not working in a state, and we see it through the data, we really need - like we encourage and try to work with you on what can we do and sometimes that requires a tweak in legislation for example.

Assemblywoman Nguyen: Just a follow-up on that. I know that a lot of the success is based on the fact that the money saved would be reinvested in, like, treatment programs or specialty courts or training programs, in these places, do they – do you know if they have – the ones that Vice Chair talked about, do you know if they have that kind of reinvestment kind of model, or if it was just a, 'We're going to do these changes without doing that reinvestment, retraining, you know, therapy model'?

Ms. Pierce: That's a great question. I think Louisiana is the prime example of this. And we actually have something that, if we could, we could send that out. We did a very short publication on what Louisiana did with their reinvestment. Their reinvestment, the one difference is, their reinvestment dictates how you calculate any savings. It also dictates how much of that goes back into the General Fund versus gets invested, and it literally describes what percentage of that savings goes to what. So, Abby works in the State. She leads our effort there, so you might have more insight?

Ms. Strait: So, they split – and one thing I think that's important about Louisiana's, too, is that they sometimes – oftentimes, states start with having the reinvestment. But then, it slowly kind of goes away and is put into other pockets, but Louisiana has language in the legislation to guarantee that it's – stays to what it's allocated for. So, their legislation splits it into four different – as Barbara mentioned, part of the savings is returned to the State General Fund, so it gets back into the main pot.

But then, the rest of it is split into different categories, the first being internal investments for DOC, internal investments for juvenile justice, and then, grants for victims of crime and into, like, crime victim support services. And then, the final category was, I think, a pretty innovative one, which is grants to community service providers, to help do recidivism reduction and alternatives to incarceration, supports within the community. So, they've identified several counties, which they call parishes in Louisiana, that were contributing a disproportionately large number of people going to incarceration were coming from those parishes, and they were lacking some community supports in those areas, especially for things about behavioral health, job support, re-entry support, stuff like that.

So, they set up this grant program, housed within DOC, to support expanding some community services in those areas, and they're just, like, two years into kicking this off. So, we don't have results from that yet, but they've been working to kind of buildup that infrastructure within their parishes, through the reinvestment money.

Christine Jones Brady: So, Chair Hardesty, you mentioned impediments. And based on my decades of working in Nevada, I can probably predict – I will wait to see your data, that some impediments will be a lack of affordable housing, lack of transitional housing, not enough mental health resources or mental health services. And so, all of these things, to my mind, translate into money. And so, this – these, you know, AB 236 is going to go into effect very shortly. And I predict we might not have a lot of these services in place. So, will you be helping us identify grants, seed money, and other public partnerships to help us get these infrastructures in place, before the proverbial floodgates open?

Ms. Pierce: There's a few different things to talk about here. There is the reinvestment that your group will be working on and making recommendations for investment. There's also – one of our next agenda items is about a small pool of money that will be available from the federal government through CJI. And so, we'll talk about that, I think, two agenda items from now.

Also, at CJI, we have a lot of connections with different funders. And I actually was just telling one on Friday morning about some of the work that you're – that you're going to be doing

around mental health in law enforcement. And so, we do try to – we know when federal funding opportunities are coming out, and we do try to make connections, because your state only has so many resources, and there are a lot of resources for certain things out there. So, we'll do our best to bring that to the Commission.

Dr. Emily Salisbury: So, I guess I just have a question about – I love that you all are talking about implementation and the implementation science work. I think it's really, really important. So, some of us were actually really listening to that presentation by you, because I oftentimes am geeking out on that stuff, too. So, I appreciate it. I wonder if there's any capacity for helping our major stakeholders in leadership capacities to start understanding that we can't just take what I like to call a "train-and-pray" model, that if we just train the staff, and if we just train the stakeholders, that suddenly it will take root.

One thing that I found in my own work and certainly in the research around implementation science, of course, is that this idea that it takes a certain level of systemic implementation drivers, certainly beyond the competency drivers, of training and coaching staff, that we have to understand the leadership drivers, the communication drivers, the organizational stakeholder drivers, many of which you've already covered. But unless we have people who are sort of coaching executive leadership staff, I find, on how to do this, there's many agencies that know what evidence-based practices need to be in place, but they don't know where to start, and they don't know how to sustain it.

And so, it matters not, if we know what the evidence-based practices are around correctional treatment and sort of correctional rehabilitation and the other philosophies of corrections. It doesn't matter if we actually know that stuff, if we can't implement it and sustain it. So, really, my question is, is there any capacity on the part of CJI or anybody else to be able to really start coaching our executive leadership around what that really looks like and how difficult it is? Because, as you mentioned, change is really, really difficult. It's messy. It's not fun for agencies. And the kind of cultural change that we're talking about here in our state is pretty substantial. Thank you.

Ms. Pierce: Thank you for the question and thank you for geeking out on implementation. We've found a soul mate here. So, a couple things around capacity. So, we've done executive coaching in different areas. We don't typically do it as part of justice reinvestment. That does not mean we can't. I think, for the purposes of that, in this State, if an agency is interested and willing, we have the ability to contract with people. And it might be somebody that that person has worked with, or the agency has worked with in the past. So, we have some flexibility to do that.

I would also add that we have a partner who we have contracted with specifically, in recognition that you can do all this great stuff and follow the plan, and it still isn't going to bring about the change you want. And so, this past year, we added a partner who does cultural assessments and cultural coaching. And so, that might also go along with what you were talking about, Dr. Salisbury.

Chair Hardesty: If I may, Dr. Salisbury, I wanted to add one other thing, or actually, for the whole Commission. I think you make a really good point about the involvement and the

acceptance of the Executive Directors of the various agencies. One thing that I have had – I’ve been privy to, that the Commission hasn’t been, I don’t believe, when Ms. Gonzalez came onboard, the Governor contacted all of the different agency Directors and expressed, through Mr. Gibson, his support for this effort, his expectations of cooperation, and his intentions to do what is appropriate to work through these various issues. And I think that’s an important place to start.

So, as I said, this is in its embryonic stages, and there will be trials and tribulations, as you’ve noted. By the way, I loved your article and your paper. Thank you very much. That was very insightful. And I shared it with CJI, by the way. But I think it’ll get us started to know that the Governor is behind this effort.

Dr. Salisbury: Thank you.

Chair Hardesty: We have another item under agenda item five. And I just want to touch on this briefly. I don’t know if people had the time to review this material, but you will recall, at our last meeting, Dr. Salisbury brought to my attention the existence of an article, written by William Sabol and Miranda Baumann, about Justice Reinvestment. And some aspects of the article were critical. I think, as I researched this, I discovered that there were some responses, I’ll call them, and criticisms of the criticizers. So, I had asked that Mr. Engel, on behalf of CJI, provide some responses that I’ve shared with the Commission.

So, I’m going to defer this agenda item, to make him available, to see if anybody has – well, let me ask this, because it may save some time. Do any of the Commission members have any questions for Mr. Engel or would like the opportunity to ask him some questions? If not, then we won’t trouble him, and we’ll move on with our agenda. If yes, we can ask questions offline as well, or we’ll have him call, and we can address them publicly. Do any of the members of the Commission want to engage Mr. Engel directly during the meeting?

Dr. Salisbury: I do have a question that I would like to engage. I think it’d be important to hear some feedback from him.

Chair Hardesty: So, we will call him. And when we have him, we’ll return to that item.

Dr. Tyler-Garner: Just have a clarifying question. Dr. Tiffany Tyler-Garner, for the record. Will he be speaking to specifically items of this article or a counter-position?

Chair Hardesty: He provided a written response that was in your materials, and he’ll respond, as well, to your questions.

Dr. Tyler-Garner: Thank you.

Chair Hardesty: Okay. We’ll move on. They’re delayed in getting him onboard.

6. Presentation of Proposed Procedure to Apply for Subawards (For discussion and possible action)

- A. Discussion and approval of proposed forms to apply for subawards
- B. Discussion and approval of proposed procedure to apply for subawards

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

Barbara Pierce, Director of Justice Initiatives, Crime and Justice Institute

Chair Hardesty: Let's turn to item number six on the agenda. As I mentioned before, the State has received a commitment of about \$350,000 to assist us and assist agencies, more importantly, with the implementation of AB 236. What was of interest, I think, to the Governor and to the Prison Board is, when you get a grant like this, how do you decide who decides how to spend it and the like. Turns out that the Governor has delegated to this Commission the responsibility of evaluating, prioritizing, and authorizing the distributions of these awards to agencies throughout the State.

So, I'll give you a little bit of an overview of what we're going to try to do and then ask Ms. Pierce to introduce the subaward issues that are raised. Our state has until September 1st to spend the first \$150,000. We will then have available to us approximately \$200,000 after that. Given the decision by the Governor to delegate to the Commission an evaluation and prioritization of those awards, we are putting before the Commission a structure for you to look at, that would allow agencies throughout the State to submit to this Commission applications that would be reviewed by the Commission at its next meeting, prioritized, and then, authorized for expenditures now and after September 1st.

So, the purpose of this set of presentations is to more fully inform you and acquaint you with this process and what this is all about. So, Ms. Pierce and Ms. Gonzalez?

Ms. Pierce: Thank you. So, subaward is a weird name for anything. It's a federal term that they use. So, I'm just going to take a second to explain what a subaward is. Subawards are essentially discretionary grants that come from the Bureau of Justice Assistance. I referenced in my prior presentation that those funds actually reside currently in our budget, set aside. We can't use them for anything. They're literally set aside for the State of Nevada to use. And so, the funding is specifically earmarked for implementation and sustainability. It cannot fund anything outside of that. And so, it would have to have direct influence on the implementation or sustainability of all the policies in AB 236, specifically.

To be eligible for these awards, a state has to have completed Phase I of the Justice Reinvestment Process. You clearly did that. And then, they have to have progressed into Phase II, which you are in because of a letter. Justice Hardesty mentioned a letter went – an application to BJA. A letter came back and said you're approved for Phase II. There are two other criteria for receiving these funds. The State has to have engaged with a technical

assistance provider. Clearly, you have done that. And you also have to have convened a Justice Reinvestment oversight group, and you are functioning as that.

And so, again, \$350,000 in total has been made available to Nevada. And then – so, the funding is split in two. That is simply because of the federal cycle and the federal funding cycle. And so, the first \$150,000 is available through the end of September 2020. So, again, that's the federal fiscal year. And then, the next funding picks up after that and goes for another year. There is a one-page description in your packet. So, I won't get into too much other detail. But the middle of the document that says, "Nevada JRI Subawards", explains what the acceptable uses of the funding is. And I'll turn it to Victoria, really quick.

Director Gonzalez: I'm just going to provide a little bit of background. As Justice Hardesty mentioned, the Department and the Commission will be facilitating these awards, and we have the authority to do so. And so, I'm just going to provide a little background of how we got there. As soon as I was appointed, I met with Justice Hardesty and Barbara, to become acquainted with where we were at in implementation. I was very aware of AB 236, and I was aware of the duties that – broadly, that were going to be put on the Commission and the Department.

I met with Justice Hardesty and Barbara, and they informed me about these subawards and the need for a process. They informed me about a meeting and a presentation that they had already made on discussing these awards and that there were already discussions with the Governor's Office, about how to administer these awards. So, at the direction and support of Justice Hardesty, I reached out to Brin Gibson, and I met with him on January 15th, 2020. Because being aware of these awards and being aware of this Commission as essentially an oversight of AB 236, I thought it made sense that – for this Commission and the Department to administer that.

So, I took that proposal to Brin Gibson and pointed out that this Commission would provide, number one, a public forum for this administration of the awards. It would promote transparency and be a way for a full discussion of how best to spend these funds. Additionally, as we've discussed, this Commission functions as an oversight body for AB 236, which would naturally make us an appropriate participant or appropriate entity to administer these awards. And then, finally, our existing partnership with CJI would also make sense for us to assist in administering these awards. Not only with CJI being the technical assistant to all of the agencies, but specifically to the oversight body for AB 236, would put us in a perfect position to help have this transparency and the support to administer these awards.

Brin expressed to me that their number-one concern in the Governor's Office was that these funds would be spent. He was very concerned about making sure the implementation was successful and communicated to me that that was the number-one concern. And I ensured him that this process would ensure the funds would be spent, because we would be able to inform the agencies, we'd be able to answer their questions, and we have this direct connection

with CJI, to make sure that the process happens efficiently. He agreed and said that, through the Governor's Office, the Commission and the Department have the authority to administer these subawards in partnership with CJI.

Ms. Pierce: Great. So, you have two things – two documents in front of you. One, again, I referenced, is the one that says, "Nevada JRI Subawards". That simply explains the total amount and the breakout that I described. Again, it shows the acceptable uses of the funds and also the request process, which Victoria's going to explain more in detail, in a moment. The second document is a little bit more important. It's a draft for your consideration of the Subaward Request Form. The form is designed so that agencies can hopefully quickly develop a proposal. It does not have to be that extensive, but enough information so you, as Commission members, can make a decision about prioritization of these funds and also make a selection as to which ones will go in the ultimate application to BJA.

The form also includes the minimum amount of information that we at CJI need to put in an application to the federal government so you can get these funds. And so, you'll just see the Request Form includes contact information from the agency requesting the funds, the length of the project, which will be important, because of the split across the federal fiscal years, and it also has a narrative, enough so that you'll be able to make some decisions and make recommendations on this funding. The budget is very simple, and just a brief budget narrative, and that's all that we've included in this.

Director Gonzalez: So, as Barbara mentioned, this is a proposal in front of this Commission. While the Commission and the Department have the authority, ultimately the Commission will need to approve how they would like to move forward with this. And so, that's what Barbara and I have put together, at the direction of Justice Hardesty. And so, again, this is a proposal for this Commission. Number one in the process would be that, along with CJI, we would partner to get what you – the materials you see in front of you out to every agency that is – would need – would be eligible for these funds.

If you refer to the implementation plan that CJI presented earlier, it would be those agencies that are listed there that would be eligible. And so, we would reach out, we would contact all those agencies directly, and send them these forms. As you can see on the form, I am listed as the contact for not only questions, but to submit the application to. The agencies, after we submit the form, they would submit everything back to me, based on this proposed form that we put here. I have put a tentative April 1 deadline as a proposal for when those would be due to the Department, because as Justice Hardesty mentioned, the plan would then be to, after the Department has compiled all of the applications, we would prepare those for the April 29 meeting of the Nevada Sentencing Commission.

And at that point, the applications would be discussed in our public forum and decide how to go from there. So, at that meeting, the Commission may need to amend some of the requested

amounts, based on the number of requests that you receive and the availability of funds at that time. And so, at that meeting on the 29th, after anything that's been approved, amended for the awards, the Department, in collaboration with CJI, we would send all those forms to CJI, and then, CJI would process and award those funds to the agencies.

Each of these agencies, after they have been awarded these funds, they will need to refer to their internal controls about what to do with grant funds and make sure that they have their procedures. They are very aware of the procedures that they have in place, to make sure that those funds get expended by the deadline. As we mentioned, the concern of the Governor's Office was that these funds would be expended. And so, just because we have this procedure in place, and CJI works through their process, we need to make sure the funds can actually get to the agency in a way that they can spend them. And so, that will be on the agency, to ensure that they know their internal controls and know who they have to talk to, in order to make sure those funds can be appropriated to their budget.

And so, now, we can take any questions you have about this proposed – not only the forms, the application, and the procedure that we have before this Commission.

Chair Hardesty: Are there any questions for Ms. Pierce or Director Gonzalez, about the subaward process and application?

John Arrascada: Are the subawards intended to go to existing, say treatment facilities which is what the justice reinvestment is going towards, or is it to open new facilities? Because to open new facilities or new centers, that is a very small amount.

Ms. Pierce: Yes, it is a small amount of money. You all have to decide on, you know, within the parameters of what the money can be spent on, where that funding is going to go. It's really driven by you, as the Commission.

Chair Hardesty: And I don't think, Mr. Arrascada, this money – I mean, the Commission's going to have to evaluate this, when you see these applications. But as we will learn later in the agenda and through other presentations going forward, agencies that are faced with implementing a number of these issues are going to need staff support to assist them in what they're doing. I don't see these funds as being used for a service provider, for example, but I can see where P&P has formed these implementation groups. You're going to hear about some challenges that exist throughout the agencies, with respect to their data and their software – computer connections and the like. But there's some short-term needs to address and then, longer-term needs, yes. But the Commission will decide the priority of those and the agencies that should receive them, and we'll get those kinds of requests. It's just an opportunity to take this amount of money and spread it out among those who have needs that can help implement the bill.

Chief Anne Carpenter: So, Director Gonzalez, when you talked about the internal controls, are you talking about, as with most grants, that you have to provide information to the feds about how it's spent and have measurables, and that sort of thing? Is that what you're asking? Or that's what you stated?

Director Gonzalez: Yes. I'm referring to that. Also, I've not fully vetted this information. But I believe there may be some sort of process that may be required to go before IFC or some other entity, if you receive grant funds. That's mostly what I'm referring to, but anything else you need to do, to check the boxes, for receiving grant federal money – or just grants, in general.

Chief Carpenter: Okay. Thank you. And another question. So, am I correct, when we were – the Division – if the Division were to receive funds, besides all the obstacles that we have to go through, would we have to utilize existing funds and then be reimbursed?

Ms. Pierce: Yes, that is how it works. You would send in an invoice to us, and we reimburse you.

Judge Scott Freeman: So, how do we get more of this money? And how did Nevada get 350,000 and no more? And can we get more?

Ms. Pierce: So, other states – the amounts have varied over time. When this first started, other states were getting up to \$500,000. Some states were getting up to 400, and it was based on the amount of money that was basically negotiated between us and the feds.

Judge Freeman: So, who made the decision that Nevada got \$350,000, as opposed to \$500,000?

Ms. Pierce: The Bureau of Justice Assistance did.

Judge Freeman: Is there a way we can communicate with them in the future to get 500,000, as opposed to 350,000?

Ms. Pierce: Yes. We could – we could try to make that request. It would help to have this Commission helping us.

Judge Freeman: We'd be happy to help.

Ms. Pierce: I know. What I would encourage is that we have that discussion after the – like, in the next federal fiscal year.

Judge Freeman: Thanks.

Ms. Pierce: But thank you for raising that.

Chair Hardesty: And if we don't successfully spend the first 150, we'll never get to the next 150.

Assemblywoman Nguyen: I'm hearing a lot of chatter here about how you spend the funds, and then, you submit for reimbursement? How does that work? Because I know that, in looking at every single agency that's sitting, at least down here, down South, there's not a single person that would be able to, like, request or compete or ask for those funds, because of the way that their, I guess, systems are in play, that they wouldn't be able to do it. And even if it was like a non-profit organization, like, there's not a lot of organizations that would have that kind of money upfront, to be able to spend it and then, seek reimbursement as well.

So, how have these funds been implemented in other places? Because I can see a situation where we don't have anyone that can apply for it, because they have no way of seeking those funds.

Chief Carpenter: And absolutely, I'm concerned that the Division, who is a major player in implementation of all of the AB 236 changes, that we won't have money in our budget, first of all. And then, there are obstacles, especially having to go through other entities to get approval for this money. And then, once we do that, we'd have to find out – or, you know, get a bid or whatever, and then, purchase it and utilize all this, before September 30th. These challenges are real. And so, I think that's what this group is concerned about.

Ms. Pierce: I'm not sure I have much to add on the reimbursement part. We try to turn it around, as quickly as possible. I'll provide just a few examples of what states have used this funding for. So, the state of Alaska, as you know, you can't drive most places. They wanted to do some training, and we literally paid for travel to a central location. So, the Alaska DOC did pay for that, and then, again, submit it for reimbursement.

Some people are able to – you know, they might hire a trainer or something to come in, and they – they might not – like, they might pay the trainer, once we have provided – we just need an invoice, basically, proof that there was an expenditure. I'm trying to think of some other examples. So, the state of Louisiana has a JRI Coordinator, for example. So, it's on their payroll. They submit their payroll monthly to us, and again, we reimburse.

Chief Carpenter: So, Dr. Salisbury had talked about having some type of training provided to executive staff, which I think is an excellent idea. Is there any way that we wouldn't have to go through a contract process? Because all the contract processes that I have gone through have taken six months, eight months, a year, and we don't have that time. Is there any way to jump through that hoop differently?

Ms. Pierce: I'm not sure that I can answer that. We basically have to do it on a reimbursement basis, regardless of how it works, because we have to submit – we have to have evidence that this - expenditures occurred. And so, we literally take the invoices, and we have to have those available to the federal government. And I do recognize that – I used to work for a state government, and the procurement process in the state I worked for was extensive. So, I think that's part of why – and unfortunately, this money is split over – over two federal funding cycles. So, it may be that you apply for the next round of funding, rather than the one that would have to be expended in September.

Director Gonzalez: If I may, as I – thinking about – I'm in a similar position, by being the Executive Director of this newly established Department that is related to implementation. And so, by that, this Department could apply for the funds. And so, I'm just thinking about, if we were, I would look at – if I was just looking at this, I would prioritize, what are some expenditures I could make immediately, that would be within my budget? Because I think that's kind of what we're getting at is, we all – those of us running whatever our entity is, we have these very limited budgets in front of us. And to have to come up with those funds, upfront, and get those through our internal controls, in order to make certain purchases or requests or purchase orders, we have to get through that process.

And then, they're going to look to us and ask me, 'Well, you don't have these funds in your budget for this item. And yet, you're asking for this request.' And I'll say, 'Well, I'm applying for a grant.' And so – and so, I assume that's kind of what we're – a little bit of what we're getting at. And so, when I think about, if I was in this position, I would be prioritizing, what are some of those purchases I can make right now, that then, I could apply for reimbursement for this first round of funds. And then, prioritize, if there is some training involved, that does take a longer process. I could start those steps now, to prepare for round two of the funding, and applying for that process.

So, that's something – as -- you bring up a great point about how to prioritize what I need. And so, as I think about, if the Department might request some of this as well, I'm going to make this list. And based on – you bring up a good point about the questions I should be asking myself. That's exactly how I'll prioritize, if I do apply for anything. It will be based on, what can I afford to buy now, and then get reimbursed for, later, and then, make plans for some of those bigger expenses. And then, we'll just meet with the Department and CJI, maybe, and coordinating that and communicating, is one thought I have.

Ms. Pierce: I did also want to link these discussions. Judge Freeman, this actually speaks to exactly why some of the funding has fluctuated and gone down, because we find that states have a really hard time spending money. They have a hard time. So, some people have used it to hire staff for a few years. They have a hard time getting people. Sometimes they're trying to hire IT staff. That person is not up to par, and they leave the job. The procurement laws in some states also make it a slower process. And so, states have had a hard time, historically,

spending the money, and that is why the 500 is not –

Judge Freeman: Is there a vehicle so that if -- an agency knows that they have a guarantee, that they know that their budget – when they don't have a budget item, that they're gonna be reimbursed, before they do so? In other words, they say, 'We need additional staffing. We don't know if we're going to get reimbursed.' Is there a way that you could provide a letter of - preapproval process?

Ms. Pierce: There actually has to be, it's part of the process. We have to – CJI and that agency establish a contract, essentially. So, it is guaranteed.

Chair Hardesty: So, I wanted to put this on the agenda for lots of reason. First, we have this opportunity and these funds available to agencies throughout the State, that could use them. We have – these – this is the impediment I was referring to. We – structurally, we run into a problem of being able to spend money that's made available to us. We need to resolve that problem if we can, with various agencies. So, in order to get this moving forward, I'm not willing to sit around and wait till somebody decides what the process is. I want to get the requests out, and I want to find out who needs money and for what purposes.

If we just keep operating the way we usually do, it's too hard, and I can't get it, and there's too many processes, by the time we figure it all out, it'll be gone. And this is part of the frustration I had when we were requesting this money, in the first place. To Barbara's point – to Ms. Pierce's point, when we were talking about the amounts, these funds are available, but states can't spend them. They can't spend them, because they're in their own way. So, I'm trying to overcome some of those issues. And I've asked the Governor's Office to assist us in this, and their Finance Division, and if necessary, we'll get with the Legislature and IFC as well.

But we need to get the agencies to start requesting these dollars and identifying what their priorities are, so that the Commission can start focusing on that. The how-to is a separate piece that we as a Commission probably can't solve. But the Executive Branch and the Legislative Branch needs to address this, so that these funds can be utilized.

Dr. Salisbury: So just to note, for all agencies, this may be one way, and I just mentioned this to Chief Carpenter. In our Department at UNLV, and the Department of Criminal Justice, we have the Center for Crime and Justice Policy, which is the statistical analysis center for the State. It has historically been underused and underutilized by state agencies, particularly in the realm of criminal justice. That may be able to serve as an entity to apply on behalf of these agencies, just as a word of procedure and process. That may be something for agencies to look into and for us to discuss as a possibility.

Chair Hardesty: So, what I would like to request, unless there are other questions, is for the Commission to authorize the staff to proceed with the process, the solicitation of agencies for

these awards, and utilize the forms that are in your packet. And then, if the Commission is in agreement to do that, then I'm going to appoint a subcommittee of three or four of you, to work with the Executive Director, to provide information, at least, about what the Commission might be able to do, to address some of these perceived impediments.

But I also will ask the Director to, in soliciting these awards, ask the agencies to express what their concerns or the steps they feel they'll have to go through, that will delay this process, and what we might do to overcome those problems, along with the suggestion with Dr. Salisbury has made. And there may be some other suggestions as well. So, I'd like to invite a motion with respect to the process and the forms and see if people are supportive of initiating this.

ASSEMBLYWOMAN NGUYEN MOVED TO APPROVE THE SUBGRANT PROCESS AND FORMS.

MS. JONES BRADY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Hardesty: All right. Then, we will proceed along those lines. And I'm sure the Director will be in contact with all of the grant – potential grant recipients and Agency Directors, and in those conversations, for example, with Ms. Carpenter, how many impediments are there for you to get money, that we might be able to help solve.

7. Presentation on the Establishment of the Nevada Local Justice Reinvestment Coordinating Council Pursuant to Section 8, of Assembly Bill 236 (2019) (For discussion and possible action)

- A. Discussion and approval of creation of Nevada Local Justice Reinvestment Coordinating Council
- B. Discussion and approval of solicitation of appointments to the Nevada Local Justice Reinvestment Coordinating Council

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

Chair Hardesty: Then, let's move on to agenda item number seven.

AB 236 provides for the establishment of the Nevada Local Justice Reinvesting Coordinating Council. That's another item on the to-do list in AB 236. I've asked Director Gonzalez to make a presentation to you on what this Council is, what its responsibilities are, and make recommendations concerning getting that phase of AB 236 started. Ms. Gonzalez?

Director Gonzalez: Thank you, Justice Hardesty. So, AB 236 did provide for the Nevada Local Justice Reinvestment Coordinating Council. You'll find section 8 establishes the Nevada

Local Justice Reinvestment Coordinating Council, which I'll just refer to as either the Council or the Coordinating Council. The Coordinating Council will consist of 19 members, which it means – which is 1 member from each county whose population is less than 100,000, and 2 members from each county whose population is 100,000 or more.

The manner in which the members will be appointed to the Coordinating Council is, they must be appointed by the governing body of the applicable county. At some point, the Chair of this Commission, so, Justice Hardesty, in this situation, appoints the Chair of the Council, after the members of the Coordinating Council have been appointed. Each of the members – the statute requires that – mandates that each member will serve a two-year term.

As provided in the bill, and then, as codified, the duties of the Council are as follows: To advise the Commission on recommendations on issue related to the enactment of AB 236, as it relates specifically to local governments; identify needs for programming at the local level; provide recommendations regarding grants to local governments and non-profits; oversee implementation of local grants, if local grants are in place; create performance measures to assess the effectiveness of grants, again, if grants are in place for these purposes; and then, identify opportunities for collaboration with certain agencies for treatment services and funding.

In terms of how this Commission and its relationship to the Coordinating Council, this is also provided for in statute. The Commission is required to, if available, to the extent of – availability of appropriation, provide staff to the Council, to the extent of legislative appropriation, and then receive recommendations from the Council. Then, that's the relationship between the Sentencing Commission and the Coordinating Council. So, that is the extent of the language that establishes the Coordinating Council and then, the duties of the Coordinating Council.

And so, from there, as the Executive Director that works with this Commission, I took it upon myself to come up with a proposal in how this Council could become established in terms of making a recommendation to this Commission on how to move forward with what's required in statute. A proposal I have to establish this Coordinating Council would be to, number one, approve this Department, the Department of Sentencing Policy, provide staff to support this Council, as is provided for in statute, and then, authorize the Department to solicit appointments to get this Council going, because, otherwise, I don't see a way that this could just get going on its own.

If the Commission has approved that staff can support the Council, then, by all means, the staff can start getting the Council going. And so, the Department would then solicit appointments with a letter we would send out to each county, laying out, basically, in a letter form, of what I just presented to this Commission, about what the Council is, how it was established, what the duties will be, and what – and then, just the requirement for an appointment and maybe a deadline for when we would need that appointment, so that this Commission could appoint the Chair of that Council.

And so, that's why I put here as a future agenda item, that could be something after the Department – if this is approved, have – after the Department has solicited letters, we could create a timeline, either by the April meeting or the July meeting, to have those members in place and then, start that relationship with the Coordinating Council and the Commission. That is a very brief overview, mostly because that is the extent of what's provided for in the statute. And I came up with this proposal so we could start the discussion of this Coordinating Council. The duties, I would point out, are – I would say, are broad, and I would say, the relationship between the Coordinating Council and the Commission is a close one.

And so, I would foresee the Commission guiding the Coordinating Council on what you would like to see from this Coordinating Council. So, that's just generally my – my – I wanted to get some perspective of what – how I read the statute and what I perceive this Council to be, but I'd be happy to answer any questions that you have about this and about this proposal that I have brought before the Commission.

Chair Hardesty: Are there any questions for the Director, about the establishment of the Coordinating Council, per the statute?

Chris Hicks: So, have you maybe talked with CJI about this? Like, is this a common thing in other implementation sites, to have this kind of Council? What I'm curious is, for example, Washoe County, there would be two. And what type of individual are we looking for, are typically on these Councils? Because, as I understood your presentation, I think it would be my Board of County Commissioners that would appoint the two people, and I would like to be able to give them some insight as to what type of individuals might be best for this kind of Council. Have you done any research into that?

Director Gonzalez: Yes. I have researched – so, they – we have found – in talking to CJI and just in – based on my experience, there are – I'm aware of two other entities that are somewhat analogous. In the previous Interim in this – when the Sentencing Commission of – of this form existed in the Legislature, this Sentencing Commission received a presentation from Oregon, which presented a version of their Coordinating Councils. And I can provide some information right now about that. But they're very different from what I think this legislation envisions. There's also a Coordinating Council in Maryland, which seems a little more analogous to what Justice Reinvestment looks like in Nevada.

Both of these councils did come out of a Justice Reinvestment Act, in those states, in both Oregon and Maryland. In Maryland, they have an oversight body, which would be analogous to this body, and then they have – this is – this Council, which is a way for them to get information from the local governments, about how implementation's working, and just a way to interact with how that implementation's working at their level and recommendations they have at the local level, to then bring to the oversight body, in terms of what they'd like to see included in a report, let's say. What was going on in Oregon, and, based on the presentation

that this Commission received, and I'd be happy to send those materials to you, but it's very different.

With Oregon, their Justice Reinvestment Act was a little more focused on just grants and some modest sentence reforms. And that presentation was back on February 16th. When Oregon participated in their Justice Reinvestment Act, they focused on grants. And so, in response to their Justice Reinvestment Act, the Oregon Legislature appropriated almost \$40 million to this kind of entity, to administer grants. So, they had created their Local Coordinating Councils to then administer grants at the local level, put performance measures in place, hold these counties accountable, and then, administer grants that were appropriate for those counties.

Nevada's version of Justice Reinvestment doesn't look like that. We – this Coordinating Council was created in AB 236. It's got a variety of duties. It – this grant – this – administration of grants is a possibility, but we have not had the same response that Oregon had, where Oregon had that appropriation, that very substantial appropriation to their Criminal Justice Commission, to then administer a substantial amount of grants. So, that could be one thing that this could do, if we get to that step. But like I said, I think it'd be more analogous to what's going on in Maryland.

We could look at Maryland. I can just give you that detail about Maryland, being an oversight, and then – it's a way to communicate with the locals. It's a way to make sure that this oversight body, as it's implementing AB 236, is not just – is making sure we – it's a – it's a holistic view on implementation, and we get down to that local level. And that's what I think it would be at this point. And I think this Commission can take that insight, from what happened in Oregon, what happened in Maryland, and we make it Nevada's own, based on these duties.

And I see this as an opportunity, with those duties not being as specific as some of these other Coordinating Councils in other states, to provide that opportunity of what would you like it to look like, and how would you like to communicate, what would you like to communicate with your local counties? So, to answer the second part of your question, I'm aware that some counties have their own version of a criminal justice advisory body. And so, it might be – when I'm reaching out to the counties, that might be a place to start, with those counties that have those bodies in place, to – they might want to appoint somebody from that body, since that's already within the realm of communicating with criminal justice.

And then, from there, I would be happy, because I'd be the one reaching out to the counties, to provide any guidance and help, when they're looking for somebody. But I imagine it would be something very similar to either this body or ACAJ, where you have different members of the criminal justice system, based on who they would like to represent that component, in their local area, and then, have them represent the county, in this discussion of criminal justice and implementation of AB 236.

Chair Hardesty: Mr. Hicks, in my discussions with CJI and with Director Gonzalez, my vision of this was that it does provide a vehicle for the – all of the counties to provide local input to the Sentencing Commission on a variety of topics, issues that they see that are problematic in the implementation phase. More importantly, to piggyback on a portion of what Oregon does, to provide input on what will be effective criminal just measures in their counties. In our state, I think we're very fortunate in the two urban counties to have – such as the Criminal Justice Advisory Council in Washoe County and a similar organization of stakeholders in Clark County that can provide local input to this process.

And so, I think the purpose of the Council is to assure that and to also create opportunities for rural counties to start providing input to a state Commission about those processes. But like other areas, we have a blank slate. We can work with them and draw up those duties as we see fit. I get your point. How does the – how do the Board of Governors or the County Commissioners, I should say, decide who to put on there? But I think the general description is, to convey implementation issues, problems, concerns, suggestions, from the local level and ultimately, I would hope, offer local level solutions that the Commission doesn't get in the way of and helps promote, actually.

Ms. Jones Brady: Are Tribes included in that, by any chance?

Director Gonzalez: Not specifically. Members are appointed based on the county.

Chair Hardesty: What I would like to invite is a motion to authorize the Director and the Department to proceed with communicating with the various County commissioners, to begin the formulation of the Nevada Local Justice Reinvestment Coordinating Council.

MR. ARRASCADA MOVED TO PROCEED WITH COMMUNICATING WITH VARIOUS COUNTY COMMISSIONERS TO BEGIN FORMULATION OF THE NEVADA LOCAL JUSTICE REINVESTMENT COORDINATING COUNCIL.

MR. MCCORMICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Five-minute break taken]

8. Report on Required Collection of Data by the Nevada Sentencing Commission (For discussion and possible action)

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

Barbara Pierce, Director of Justice Initiatives, Crime and Justice Institute

Chair Hardesty: We'll reconvene the Commission and begin with agenda item number eight. As you know, one of our most important duties as a Commission is to track and assess results from the enactment of AB 236 and provide a report regarding these various issues. So early on, I asked the Director and CJI to begin a process of meeting with various agencies throughout the State, to begin to catalog the types of data information or data inventory that is available to us as a Commission, from those various agencies.

And so, I'll ask the Director and Barbara to provide you with a summary of what they've been doing, who they've been meeting with, what the bill requires, and give you an update on some of the things that they've identified and spotted with respect to data availability and data collection problems.

Ms. Pierce: Thank you, Justice Hardesty. So, when we talked about cataloging data, we created, basically, a form to fill out, when we met with all of the agencies. The first step of that was pulling every performance measure out of AB 236. And, in total, there were over 170 different measures. It sounds really shocking, but I just want to explain why there are so many.

If you look at the – there's a handout that says, "AB 236 Required Performance and Outcomes Measures" on the top. If you just look at that top section, around "Prison Admissions", this is something – this is information DOC is required to report to the Commission. Within the prison admissions category, there's – there's breakdowns listed in the statute that are required, and so, for prison admissions, it's in total prison admissions, and then, by type of offense. Type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, and risk score.

And so, within that prison admissions category, that's essentially 11 measures. And that's why the number is so large. So, this data inventory form that we created basically had each performance measure listed on the left-hand column, which agency is responsible for collecting the data, what data elements are needed to calculate the measure, whether that data is currently collected, any key definitions, so, things like recidivism, how is the agency defining that, and specifically any challenges to data collection and what's needed to address the challenges identified. And so, we have met with Parole and Probation, the Central Repository, and I think we have a meeting next week with the DOC.

Director Gonzalez: So, as Barbara has said, they helped to create this form, to help us guide these discussions and the measures that we are looking for. And so, going back to AB 236, AB 236 requires specifically that DOC, P&P, and Central Repository send these specific measures to the Commission, and then, therefore, the Department. So, we – I will go through what we have done so far.

So, we are scheduled, as Barbara said, to meet with NDOC. And there have been some

preliminary meetings. I'm going to summarize. I'm going to summarize a very thorough meeting we had with P&P, just to begin this inventory, to begin these discussions, and then, our – our introductory inventory meeting with the Central Repository. I first met with Director Daniels, at Nevada Department of Corrections (NDOC), on Monday, January 27th, just so we could be acquainted in a couple of ways, not only because he is a member of his Commission, but because of the requirements on his Department, to provide these data measures to the Commission.

Since then, with his guidance, I then participated in a meeting with various members of NDOC, on Tuesday, February 11th, where we were just there to begin discussions on how we're going to collaborate -- just to begin communication on how we're going to collaborate, in terms of implementing AB 236. And finally, as Ms. Pierce mentioned, we have a meeting scheduled next week, to have that very thorough introductory discussion about these very specific data measures.

So, now I'll move on to our discussion with P&P, to start to get to know these measures. As we discussed, AB 236 has very specific requirements that each of these entities are supposed to send to this Commission, so that it can then track and assess the outcomes of AB 236. As you can see on the handout that lists the data and performance measures, the Division of Parole and Probation is responsible for reporting on eight different categories: Supervision intakes, terms of supervision, time credits, supervision discharges, behavioral health, in-state supervision, revocations, time credited on suspended sentences, and administrative sanctions.

Barbara and I first met with Parole and Probation last Friday, to learn more about their data reporting capabilities and review each piece of data required by AB 236. P&P explains that one of the overall challenges the Division has is the data collecting and reporting. One of those is -- the biggest hurdle the Division faces is extracting information from the Offender Tracking and Information System. As those who are familiar, it is referred to as OTIS. So, I'll refer that to – refer to the Offender Tracking System as OTIS, from here. OTIS has no reporting capabilities. Parole and Probation uses a separate software to extract data from OTIS to then create a report.

However, after they've extracted the data – so, they use Crystal Reports to extract data from OTIS. After that's done, there is additional review and calculations that must be made in an Excel worksheet, to put together any sort of data. Another issue with the data extraction is that when P&P extracts large amounts of data, the system may freeze or crash. And that's happened more than once. And in one incident, they were trying to extract a large amount of data and then went to the IT Department of the State, as we refer to as EITS, those of us who are in this – a branch of government. And at some point, EITS system also froze and crashed, when it was trying to extract a certain amount of data that P&P was required to put together.

Next, I'm going to provide an overview of some of the data issues to expect within the eight categories, meaning, what we're actually going to be able to receive, in terms of this data. Most of the information on supervision intakes is available. The exceptions are, OTIS does not contain information on mental health status, mainly because it's not something that is determined for each person who comes into supervision. The risk scores that come from the risk assessment are housed within EITS, on a separate document. And so, that cannot be queried by this Offender Tracking System, which could then be extracted by the Crystal reports.

Performance measures on terms of supervision, time credits on supervision, and time credited for suspended sentences are available and can be calculated, based on data extracted from OTIS, like I said, through the Crystal report system, and then, through whatever additional calculations and review needs to be done, in another Excel spreadsheet. P&P will be able to report on most of the information in the supervision discharges category. As I mentioned before, behavioral health information for those under supervision is not collected in OTIS.

This means that the information on the total number of persons on supervision with a mental health or substance abuse issue cannot be reported as required. Data on administrative sanctions cannot be extracted, as there is no field for this in OTIS. So, it's a limitation on the system itself. The information is in narrative form. So, what they have is a spot in the form, where they can put any sort of notes about the individual, and they refer to that as CHRONOS or case notes. And that's where that information would be, which, in order to extract, that would mean – to do an individual review of every single file, in order to extract whatever notes have been put in there. And that's if the notes have been put in there.

Finally, as far as where we're at, this is the – I just went over the – what's required, what some of the hurdles are, what some of these limitations are. Parole and Probation is in the process of an RFP, and they have specifically requested all of these data components that are required by AB 236. Next, I will move on to a summary of the report we received from our meeting with Central Repository, in discussing this initial data inventory and the requirements of AB 236. One of the main challenges for Nevada's reporting of crime rates, moving forward, is driven by a federal reporting change.

So, there's a federal requirement now, on how certain information needs to be reported. Effective January 1, 2021, all states are required by the FBI to have transitioned to a new federal reporting system called National Incident-Based Reporting System, or, as those who are familiar with it, call it NIBRS. Currently, Nevada reports into a summary reporting system. So, NIBRS is where we're going. Right now, we're in a summary reporting system. The data the State submits to the summary reporting system includes data collected at the aggregate level. This aggregate data is collected from local, state, and federal law enforcement agencies. Those individual agencies tally the number of certain offenses themselves that come to their attention, along with arrest data for certain offenses. The agencies then submit those totals in

a monthly summary report to the Central Repository.

NIBRS, on the other hand, requires the collection of more detailed information, such as incident date and time, whether reported offenses were attempted or completed, demographic details, location data, property descriptions, drug types and quantities, and the involvement of gang activity. The new reporting requirements change how data is reported. So, it will not be – so, it will not be possible to compare crime rates as reported in NIBRS to the summary reporting from prior years. The summary reporting system counts only the most serious offenses on a case, whereas NIBRS requires all unique offense types to be reported on a case.

NIBRS also includes more crime reporting categories and offenses. In the summary reporting system, which is the system we're in now, crimes were categorized into two groups, crimes against persons and crimes against property. NIBRS adds a third category, of crimes against society. That is a very brief summary of what we've had, so far. And so, we'd be happy to answer any questions this Commission has about the requirements put on, as far as the other entities, and what is expected to be submitted to this Commission and the Department.

Chair Hardesty: Any questions here in Carson City, by Commission members?

Mr. Hicks: So, do they think they're going to be able to meet these outcomes? Because, what I'm kind of hearing from you is, the systems aren't going to be able to do what we need them to do. And my – and as a follow-up to that -- I'll let you answer all my questions -- is, I recall, for example, the Department of Corrections made a presentation to this Committee, I think, early on, and – when we started. And their data – I think everybody on the Commission would agree with me, was very poor. There were crimes in there that weren't even crimes. There were sentences that were – illegal sentences, that didn't match what the crime the person was supposedly convicted of.

And so, my concern, and I know everybody here is very much embracing the value of data, but if the data isn't sufficient, it's going to be a waste of all of our time. And so, that's my first question, is just, are you getting the feel that there's actually systems in place to even do this? And how are we going to address that? Maybe that's where this money goes, that we have. But the other question is, is – definitions, for example – for example, if you look at the Department of Corrections, under average sentence terms, you might have one average minimum sentence term by prior criminal history. Who's going to define what prior criminal history is? Or by type of offense, how's that going to be defined?

And so, again – and that might be a larger question for the Commission, Mr. Chair. But I'm just trying to digest how this is ever going to be done. So, sorry. I don't want to be a downer on this, but it's a concern.

Chair Hardesty: I think your question, Mr. Hicks, is precisely what I wanted the Commission

to confront. You know, a lot of information in the legislation was requested. I think it's, again, worth repeating that the legislation requests 184 measures from these various Departments, and my concern is, yes, these are all important measures for us to assess and to report on. But our agencies are not capable to do so, in many instances, and without extraordinary expenditures of staff time. That's why, for example, the OTIS issue is important.

So, when the Director and CJI went out to canvass this, and they're going to continue this process, by the way, I wanted to get specific information about what they can and cannot do, so that the expectations can be assessed more accurately. What you see here, to a degree, from the Criminal History Repository, for example, is, by January 1st, they're going to be on an entirely different system, with more specifics. But we still don't know for sure how long it will take to implement that system, with the data that they've got to work with. And Mindy is here, and I'm sure she's thinking, 'Oh, my word. We have quite a chore ahead of us.'

But with that overview, I'll ask the Director and Ms. Pierce to respond.

Director Gonzalez: Your question is exactly on point and exactly why we're here to echo Justice Hardesty's point. And I think that is – the approach that I want to take and how I would like to guide and lead the – and at the direction of the Commission but also guide the Commission, based on the response we get, is, we need to figure out where we're at. This legislation was passed. We have specific goals in mind about where we want to be. I think a lot of entities know that, just because there are these requirements, doesn't mean that's where we're at. And so, I think we can look at it in a couple of ways.

This is where we want to be. This is information people want. And so, that's exactly why we are going out to meet, and we are not – while this entity and the Department – this Commission and this Department functions as an oversight, we are a collaborator as well. And so, to me, while we're in oversight, we're collaborating. And that means we're going to meet you where you're at, first, and see, what do you have. We understand these mandates are in place on all of us. I – in our meetings, somebody said to me, 'This – we are bound together. All of us are bound together by AB 236.' And I really appreciated that, because we're all working together.

And so, that is our approach, number one, in going in with these mandates and these requirements. And so, by first meeting everybody where they're at, we're here to tell you, this is where we're at. I don't think it's positive. I don't think it's negative. I think, this is what we're being asked to report. This is what they're being asked to report. And this is what we've got. So, then, we come back to this Commission, and we say, 'This is what they've got.' And as we continue, I think the next step, after collaboration, is, we communicate. So, now, we're going to collaborate, and we're going to communicate.

And so, from there, this is our starting point. We're going to be talking. We've got AB 236 as

our guide. We're meeting with them. We're going to meet on a regular basis, because we're bound together. We're in this together. And so, from there, we're going to see what data they can give us, what does it look like, and then, be – we're all going to be transparent in what we have, and we don't have. And we come back to this Commission, we can say, 'These are the capabilities of this agency or this department, and here is what we can report.' And we run with that. And then, we set our goalposts and our recommendations for, how do we get to that next step?

And I think the two entities – I mean, we haven't met in depth with NDOC yet. So, I can't comment to your other comment. And I remember that presentation, and I had mentioned it to CJI. And so, we're going to review that as well and keep that in mind as what this Commission is familiar with, in terms of data at NDOC. But I will say, when we look at what's going on already, with Central Repository, with the Records Division, and with P&P, we can see that there are these entities that are working on progress. And we can look back at what has been done and where we want to be.

And I think the experience -- for those of you who participated in ACAJ meeting -- and I think when presentations have been made to this Commission in terms of records, and the journey they have been on for their modernization project has not been an overnight phenomenon. They have had an interesting journey with that. And so, that is an indicator to look at, even when we have a goal in place, the cost it takes, the time it takes to implement a system. But what I see the – this Department's Commission can do now is bring these entities together and communicate, and make sure that we're working together. And to me, that's going to be the goal with these deficiencies.

We're not going to deny that they exist. None of the entities are denying that. But now, we know what we need and what we want, and we can bring all of these issues in a place where we can discuss them, and then, figure out, where do we want to go from here, and then, also utilize what we have. I think it's important not to throw up our hands, just because we don't have all the data. But what do we have? And I will say, what – I think we're going to be able to get a lot. While we're not going to have everything that AB 236 mandates, we're still going to have a lot that this Commission can work with, and it's going to empower this Commission to make those recommendations.

And I think that empowerment is going to move everyone – is going to motivate us to work together and then, make more recommendations, and then motivate other agencies and departments, as we all want to see this. We all want this outcome. So, that's what I'll say about the deficiencies in the data.

Ms. Pierce: That's what I just wanted to quickly address your question about definitions - and who will define them. I just want to provide some examples from last Friday, actually. So, sometimes it'll be probably defined by what's available. So, one example for the P&P data,

they're required to report supervision intakes. An intake, in P&P, means something very specific. It's a specific event. I think like you and I might think it's the start of supervision. So, they don't have a field that says, "Supervision Intakes", but they have a "Supervision Start". It's things like that. So, I think some of it will be driven by what is available.

And I think some of it also is that part of this data inventory that we're doing is to record exactly – so, the Commission members need to know exactly what – what you're seeing and also what you're not seeing. And so, we're trying to literally record every definition. And so, hopefully, we'll be able to bring you this really long spreadsheet. And when you're curious, you can go and look that up. So, that's what we're trying to do, essentially, is bring that back to you.

Dr. Salisbury: So, I just have a question about – so, I see the three different agencies and the data that are represented in the file. But I guess I'm curious why we don't see any data requests or data coming from the Board of Parole Commissioners? If you could just speak to that.

Director Gonzalez: So, in thinking about the data, for this Commission and then for the Department, I have actually broadened my scope in meeting with entities, because, as I mentioned, in AB 80 and in general, the Sentencing Commission is tasked with collecting data from basically every criminal justice agency. So, I have already added that to my list, as far as reaching out to various entities, to determine their tracking capabilities. And so, specifically to your point, I did reach out to the Board of Parole for two reasons, because we have a member on this Commission.

And then, for exactly the reason I said, that there's already a mandate on this Department and this Commission, to collect data in general. And so, I'd be happy to speak more to that. I will say in general, based as a summary of that meeting, their reporting – the data they collect comes from the system that NDOC uses, which is – and I don't know the acronym right off, but I know that they refer to it as NOTIS, rather than OTIS. And so, that can – that meeting was very enlightening, so that I know what data they do collect. That was my understanding, that's why we don't have that here, specifically.

But in the future, I would be happy to, in my report that I give to this Commission, report on these additional meetings that I'm having. Because I've had additional meetings with other entities within the criminal justice system here in Nevada, just to become acquainted with their data collection capabilities, because I predict, in the future, when this Commission has questions and would like to know certain information, I would like to see the Department as a resource for just knowing where to point and where to go ask questions. And so, I'm tasking myself with that already.

But I can just tell you, in general, that's why we don't have data, specifically. It's not required in AB 236 for this purpose. However, I think, for the purposes of the Commission and the

Department, it's still important to know what everybody's data capabilities are, and that is what I can report about their data capabilities.

Christopher DeRicco: Just to kind of piggyback onto Director Gonzalez, there, and she's absolutely right. We met a couple of weeks ago, and we met prior to that. But the data collection that the Board uses is NOTIS, the Department of Corrections' program. So, everything that we have and that we pull is from their system. So, we're not going to have anything different than what they have. We're not like the Division, that has OTIS, their own separate program. So, in a lot of respects, it may be kind of nice that we use the NOTIS system. Everything that is in NOTIS is listed in here, in the Department of Corrections, can be measured through that system, and there is no separate program that the Board uses.

Director Gonzalez: And if I could just add one more thing – I really appreciated this meeting as well, because it showed me the capabilities of a model of what the Department might look like, when we're utilizing another records system or data collection system, and the potential of reports, because the reports, I think, that Chair Hardesty DeRicco mentioned that they put out, I think might be a good model to look at. Here's the reports they're able to use, using the capabilities within the State, and that might be a good indicator of potential.

Tod Story: Question for Director Gonzalez about your timeline for gathering all of this information. Not to hold you to a permanent date, but do you have a sense of when we might get access to this information, obviously, with the other deadlines that are looming?

Director Gonzalez: In terms of the specific data requirements from AB 236 and those requirements for that data, we've worked backwards. We've looked at the reports that are due out of this Commission. And so, there are two big reports. The AB 236 report I had mentioned earlier is the report that is due the second week of Session. And so, we worked back from that. So, the Commission would need to have recommendations and proposals in place to prepare a report. So, we worked back a couple months from that, and then, went back to – we're looking at requesting data, I think – what'd we say? September? October – October 1st. So, what we're looking at right now is a deadline from the agencies to request – they submit whatever their baseline is by October 1st. We would ask for the data, running up the – for the previous fiscal year. And we have not – anyway, for the previous fiscal year and maybe a couple years before that. We're going to work with the agencies on what they can provide, by that October 1 deadline. And then, from there, we would hope from that October 1 deadline, the Department will work on – with CJI on how to compile all of that, that we've received, and then, bring it to the Commission at the October – I believe we have an October meeting.

And so, we could start those discussions. So, those discussions – you'll start seeing some of that in the fall, and then, it'll evolve. But the initial requirements for AB 236, we predict to have something for the Commission in October.

Chair Hardesty: So, Mr. Story, the goal is to have the agencies provide what they can provide for data through June 30, by October 1, so that the staff can begin the drafting of the report that reflects that data or its insufficiency and whatever impediments prevent it from responding to some of those specific requests. If I may, I'd like to circle back to the relevancy of this discussion we had about the subawards. And I don't want to put P&P on the spot. But, as you saw from the description of the data collection challenges versus the areas that they're to report on, they are confronted with having to use Excel spreadsheets and personnel to communicate between OTIS, Crystal Reports and other documents within their system, in order to answer some of the data questions.

And if I'm misstating, Ms. Carpenter, I hope you'll correct me. The reason I raised some of my comments earlier, about how this money can be used quickly, is to try to find support for the staff needs that may be needed in these various agencies, to do this kind of hand-counting and so forth, that might facilitate our data collection, if that's the priority of the Commission, which I think, under the statute, and for us to meet our obligations, has to be. But that's just my point of view. So, the relevancy of this money and its utilization is really very, very specific. We talked about training, generally. We talked about travel, generally.

But in situations like many of our departments are confronted with, just having enough staff to collect this information and pull it, by hand, from the reports or the systems they're operating under, I think is going to be critical. I didn't mean to shape your funding request, Ms. Carpenter, but that's my impression from the data inventory report I got back from the Director, after visiting with your staff. Any other questions for the Director or for Ms. Pierce, on this topic? Okay. So, if we could, then, we'll close that item.

I believe that it was Dr. Tyler-Garner who raised the question about agencies and what are we going to see, going forward. What you're going to see, going forward, is exactly this continued process, where, each meeting, we'll get an update as to what the staff and CJI gets from their interface, and their meetings with these agencies and the collaborative effort that the Director talked about, and their status in being able to do this stuff.

9. Update on Judicial Training Relating to Sentencing and Presentence Investigation Reports *(For discussion and possible action)*

John McCormick, Assistant Court Administrator, Administrative Office of the Courts

Anne Carpenter, Chief, Division of Parole and Probation of the Department of Public Safety

Chair Hardesty: I'd like to turn agenda item number nine. And, by the way, we are going to have to defer, regrettably, our discussion with Mr. Engel. He's just not available. We can't get the connections done. So, we'll defer that to the next meeting, in April, the last week of April. And he'll be, hopefully, available there, where we can ask questions and clarify some of the

issues that are in those articles.

So, one of the things that is required under AB 236 is the training of the judiciary on changes that are going to occur. And there are several changes that are pretty dramatic. For example, the Division of Parole and Probation will stop making recommendations for sentencing, something that many judges throughout the State, for most of their careers, have looked at during a sentencing hearing. It'll also change how defendants are sentenced, where both the State and the defendant or defendants will be arguing to the judge what is an appropriate sentence or probation or diversion, under the statute, and what kind of evidence should be considered.

I've asked Mr. McCormick, the Assistant Court Administrator for the Office of the Courts, to provide you with an update on the training of judges and the status of that. And then, we will also ask Ms. Carpenter to speak about what's taking place with respect to training obligations for the Division of Parole and Probation, at least partially required by AB 236. So, Mr. McCormick?

John McCormick: As Justice Hardesty indicated, I'm the Assistant Court Administrator at the Administrative Office of the Courts. With Chief Carpenter's indulgence, I'll start off, and then, being that we are collaborating on these requirements, she can fill in. Currently, as Justice Hardesty indicated, Sections 12 and 13 of AB 236 remove the sentencing recommendations previously provided by Parole and Probation in the PSI. And so, the judges are going to need training on using the information that appears in the PSI on working on those sentencing recommendations or sentencing ideas.

So, we're looking at collaborating with P&P and bringing in their experts at our District Judges Conference, which is at the end of April, beginning of May, to provide that training on using the information in the PSI. And we're currently looking at – we have a Staff Attorney within AOC, who is charged with assisting with district judge education. She's currently looking at finding an expert or faculty to kind of handle the other half of the training required in Sections 12 and 13, being training on mental health and developmental and intellectual disabilities and how those pertain to sentencing and bringing that also to the District Judges Conference.

Additionally, we conducted a needs assessment, a while back, and have gotten around to utilizing that. And the district judges have indicated a desire for training on sentencing, through our distance education portal. And so, we're looking at, obviously, bringing that in and these requirements in, as we go forward, and develop a plan for ongoing distance education. So briefly, we're planning on engaging at our District Judges Conference, so there is some training that occurs before the effective date of AB 236. And I'll turn it over to Chief Carpenter for her thoughts.

Chief Carpenter: Hello, everybody. So, ever since July 1, the Division has had a team of

people looking into our PSI and how it should look in the future. And so, right now, they kind of have a shell of what it looks like, to take out the sentencing recommendation and to figure out if there's no sentencing recommendation, how do we request certain special conditions and that sort of thing. So, that team's working on it. The last PSI recommendation will be June 30 of 2020, and CJI has been helping us communicate this date and talked to the judges, statewide.

What we did find is that, with the 17 counties, we have quite a bit of inconsistencies with our PSIs, in the sense of, throughout the – how many years, different judges have requested different things in our PSIs, and we can't really do business that way. The Division needs to have one Pre-Sentence Investigation Report, statewide. And so, they are also looking at having a template for the entire State that will be used. And as Mr. McCormick said, on April 30th, we have a 2-hour block and our team will be out there, explaining to the judges what the new PSI will look like.

Chair Hardesty: Does anybody have any questions for Mr. McCormick or Ms. Carpenter?

Ms. Jones Brady: Question about the PSIs. In terms of incorporating mental health or those kinds of things, is that something that will be – will mental health evaluations or substance abuse evaluations necessarily be done at sentencing, and then, that will be incorporated into the PSI? Or how will those factors be captured?

Chief Carpenter: I'm not quite sure, because the team's still working on it. But I can definitely get you that information.

10. Update on Training Relating to Crisis Intervention by the Commission on Peace Officer Standards and Training (For discussion and possible action)

Michael Sherlock, Executive Director, Nevada Commission on Peace Officer Standards and Training

Chair Hardesty: So, one additional area is the issue of an update on training relating to crisis intervention by the Commission on Peace Officer Standards and Training. And Michael Sherlock is here. Thank you for being here. I'd like to have you go forward with your presentation, if you would, please.

Michael Sherlock: I am the Executive Director of the Commission on Peace Officer Standards and Training, also known as POST. So, let me get this out of the way. My last name is Sherlock, and I've been involved in policing or the legal profession for most of my adult life. So, go ahead and make jokes. The very purpose of the POST Commission, I hope you know, is to develop, establish, and ensure compliance with minimum hiring standards, basic training standards, and advanced training standards, for all Peace Officers in the State of Nevada. We

are also tasked with developing and presenting training to enhance the professionalism of policing in Nevada.

In addition, we now have Law Enforcement Dispatchers that fall under our umbrella. We are essentially 100 percent funded via Court Assessment Fees, of which we get a small amount. We get no general funds, at all. Funding is a critical issue for us, and it does affect our ability to fulfill our mission, every day. In terms of AB 236, first, let me say that this bill fundamentally changed a significant portion of basic training for Peace Officers, without even getting into Section 104. So, this bill and other bills that came out of the last Legislative Session required us to change nearly every criminal statute lesson plan mandated for Peace Officers in basic training. This was based on changes in the categories of crimes, even definitions of crimes.

So, we regulate all the Academies in the State, and we had to use quite a bit of staff time in updating lesson plans in anticipation of these changes, obviously. But we have completed that, and those curriculum changes have been sent out to our Academies across the State already. Obviously, understanding that Academies are in session, and you're going to have graduates that are coming out of the Academies that are going to have to understand the new changes. And so, we got that done fairly quickly. Section 104 of this bill requires that POST develop and implement, subject to available funding, and I emphasize that, a Behavioral Health Field Response Grant Program, to allow law enforcement and behavioral health professionals to safely respond to crisis involving persons with behavioral health issues.

So, in terms of funding, we submitted a Fiscal Impact Note on this particular bill, of around \$95,000, at a minimum. Even that, frankly, was a fight, in terms of our fiscal impact and getting that in. This bill requires POST to not only develop and implement the training required to establish these Behavioral Health Teams, but also to develop training related to behavioral health response, track the data related to the program, work with allied agencies in evaluating this program, and implementing in conjunction with Health and Human Services. The bill then specifically mandates the use of existing resources to measure, evaluate, and report the results of the program.

Obviously, this is difficult, if we haven't implemented the program. So, that would not come into play, in our mind. That said, in terms of policing, POST obviously is quite supportive of this plan. We would implement it enthusiastically, if we had the funding. Anytime that we can show that a program makes policing in communities safer, more efficient, reduces calls for service, we understand the value. That's what we do. But it requires financial backing for us to implement that program. Section 104 establishes the application and selection process for the POST portion of this, relating to the grant recipients. It also requires POST to submit an annual report during each year the grant program is funded, to the Governor and the Chairs of the Senate and Assembly Standing Committees on Judiciary that contains information relating to the grant program.

But again, if we've not received funding, then, there is nothing to report from the POST requirements. Section 105 of this bill requires every law enforcement agency to, one, establish a policy and procedure for interacting with persons who suffer from a behavioral health issue, and, two, subject to available funding, contract with or employ a behavioral health specialist. So, POST is not specifically mentioned here, but I can tell you that, traditionally, much of our law enforcement community across the State looks to POST, when these types of mandates come along. And I just wanted to make you aware of that.

Section 107 of the bill requires POST to develop and approve a standard curriculum of certified trainings programs on crisis intervention, to address specialized responses to persons with mental illness. Sometimes this gets confused. So, in the policing world, CIT's been around for a long time. We've mandated that training, but it's not always what the intent of the legislation is, I think. But there – so, I just wanted you to understand, there is some confusion here, between what CIT is and perhaps what a Mental Health Response Team is. They're actually two different things, from our perspective.

But that being said, at the Academy level, we have implemented and updated our curriculum to include both crisis response and response to mental health issue, which actually had been part of our curriculum for a long time. But we made some updates there and increased some of that training, at the Academy level. Section 108 of this bill requires POST to establish by regulation standards for a voluntary program for the training of law enforcement dispatchers that includes training related to crisis intervention. So, we do have dispatchers under our umbrella, at this point. It is a voluntary program.

Basic training for dispatchers has been developed and implemented to include training related to crisis intervention. The current training is 120 hours. It's an online program that we have put out for dispatchers across the State. Dispatch training is a new category for us, but I think our staff's done a good job of developing and putting that particular training together. In terms of this bill, the training is under the NAC now. Can be found under 289.335. It includes subjects such as excited delirium, agitated, chaotic events response, effective communications, stress management, and what the role of the dispatcher is.

So, with all that said, I'd be happy to answer any questions you might have, related to POST and our implementation.

Chair Hardesty: Director Sherlock, have you heard the discussion about the subawards and the possibility that your Agency might be able to apply to assist you, under the obligations of Section 104?

Mr. Sherlock: Again, I think many of you know the budget process here in the State. For us to fund a position – and that's what our fiscal impact is, is one position, a Grants Manager position, they're – most of you know, bureaucratically, it's impossible for us to pay a position

up front, and wait for reimbursement, under the current budget system. There's just no way for us to do that. But again, there may be other ways of utilizing that for a position. But my thinking is, it's probably an appropriation issue for the Legislative Session.

Chair Hardesty: Any other questions for the Director?

Dr. Tyler-Garner: You know that the implications of what essentially feels like an unfunded expectation or mandate as a part of their process. In response, are you proposing a timeline? Have you even begun reviewing opportunities to get an estimate of what the cost would be? Do you anticipate incorporating it into your budget in this month or any of those discussions? Or are you suggesting that this isn't a place where we can expect that anyone would be complying with the expectation? Just want to have a sense of where you are and how others might support?

Mr. Sherlock: For us – for budget items, you know, obviously, we have to go through the budget process in terms of positions and that sort of thing. Now, don't misunderstand me. There were certain mandates that were unfunded as a result of this bill that we have accomplished. But Section 104 is very specific. We received a legal opinion on the implementation of 104 that clearly states that, without grant funding, that particular section does not move forward. In other words, it would require funding through the grant process.

Dr. Tyler-Garner: Just with a follow-up, so, you're currently undertaking the planning needed to get it incorporated as an enhancement in the next Session? Or, like, kind of where are you in that process?

Mr. Sherlock: We haven't started budget process yet, for this next Biennium. That being said, we'd have to look closely at it and how we would couch that, given that the bill doesn't allow for legislative funding of that particular Section. So, I'm not really sure how to answer that, on whether or not we could move forward, through the legislative process, if that makes sense.

Chair Hardesty: Well, the reason I asked you about the grant funding is, the bill itself has a condition precedent of grant funding, and you have available to you a grant fund. So, I get the concern that agencies have about bringing on positions during a fiscal year or during a Biennium. But this is one that the statute contemplates utilizing grant money. So, that's why I asked whether it's something that you might put on your agenda for that purpose.

Mr. Sherlock: Yeah. And I agree with you. From future budgeting issue, yes, that is something we would definitely look at and would allow us to justify that.

Keith Logan: You have influence where each agency has to come up with policies, and through when we write those policies and send them out is there a way to verify the agencies actually comply with fulfilling those requirements?

Mr. Sherlock: Frankly, the bill does not put the requirement for developing a policy under our jurisdiction. So, I don't know that we would be the entity that ensures compliance with that particular portion of the bill from our perspective. That's not uncommon. And that's what happened in this case. We have jurisdiction over certain portions of this bill, obviously, in terms of compliance. But that's not one of them that specifically mandates POST to ensure that policy is written and complied with.

Chair Hardesty: Mr. Logan, is that something that you think that our Department should ask law enforcement agencies about, to see if there is compliance?

Mr. Logan: I think that there's an important thing to determine why they're not going to get the – why we may not accomplish the results we're looking for. It's maybe because the agencies -- there's a mandate to have them, but it doesn't have them verify compliance. That's why we won't – very similar to why the State repository doesn't receive the information that they need to complete their data, from the individual agencies or courts. It's very possible that we won't get the response back with, what are the numbers, the real numbers of who we're providing mental health help to and such like that, if there – no verification that the policy ever existed and that there's a way to track that information.

Mr. Story: So, curious about all of the training that we're talking about prospectively. But what's happening currently at police departments, and how much of this has already been incorporated into their internal policies? And how much training needs to be done, obviously, going forward, for new officers, but for current officers, who may already be operating under some similar training scheme? Do we know – is there any analysis that would let us know what that is?

Mr. Sherlock: That's a pretty broad area. In terms of – specific to this bill and the changes and, for instance, criminal statutes and crime definitions and that sort of thing that you find – and changes for basic training, it was also put out to all agencies for their use in what we call advanced training or professional development. This, along with many other bills – or several other bills, as you may be aware of AB-478 and 129 and others, in fact, so, we do put that out to agencies. There's no reporting requirement on most of that, not all of it, but some is reported to us. But much of it is not reported to POST, if that helps.

Chair Hardesty: Well, it may answer the question, but I don't think it helps. Any other questions for Director Sherlock?

Ms. Jones Brady: So, we have Director Sherlock here, and he's coming to us. He has a need for funding, and I just think that, we're all here, everybody, all of us at the table. And we're going to be able to put our heads together and think of how we're going to get all of this done, including helping you with the training. We have mental health professionals here. We have Attorney Generals. We have DA Offices. We are going to do this, and so, what I'm

wondering is if, you know, as a body, I hope that we're committed to helping him implement this. And I just want to know what – like, what we can do. If you – you think of some things that each of the offices that are here, how we might be able to help you in implementing this.

Mr. Sherlock: You know, for us, as in any budget process, it's communication and the support that we get, in terms of the legislative end of this, and frankly, the Governor's Budget Office, in the long term. We'll look at applying for the grant, you know, a portion of the \$150,000 between now and September 1. But I hope everybody understands that partial funding doesn't – when you're talking about a position to – to administer our portion of this bill, partial funding is the same as no funding. So, that's part of our problem. But we'll certainly look at that and – again, communication and support, when it comes to budget time, is crucial for us.

Chief Carpenter: So, I'm just a little bit confused. My understanding of POST is that that's the entity that deals with all training and that everybody in the State goes to POST for guidance or whatever that is. And so, I'm hearing that maybe there's some statutory language that needs to be changed so you guys are the entity that everyone looks to, number one. And, number two, I have a lot of civilian staff that need training.

My Pre-Sentence Investigation writers see things every day and pictures and read things every day that they shouldn't, that is not probably good for their psyche. And so, they also, I think, would be in need of these types of training, and I don't want to lose sight that civilians need training as well. I don't know if there's a question in there, but that's what I have to say.

Mr. Sherlock: Just to be clear, agencies do look to us for training, and rightfully so. But, from a practical matter – and frankly, from, you know, our mandate is, we establish the minimum standard, both for employment, but also for training. So, we do a lot of encouraging to go beyond the minimum standard, and, where our budget allows, we provide training above the minimum standard. But many agencies rely on their own resources, in terms of training, and don't look to us. But a lot do.

Dr. Tyler-Garner: And my apologies, as a new member, this is likely just for my own education. So, when we find ourselves at a place where legislatively there's something that we should ensure is happening, and we – it is being reported that it cannot happen or will not happen, what – what, then, happens? Because it's listed in the implementation plan, are we, like – do we say, as a Commissioner at the meeting, it needs to be revised, or it's not going to happen, or please don't report out on that? Like, how do we get to a resolution? Or what actually happens? Or what is our position on that?

And this is just for my education, as someone that – because this is maybe my third meeting, and I'm probably overly results-focused. So, I want to acknowledge that but understand kind of where – where does this leave us? Are we at an impasse, or does the expectation change, or what exactly happens?

Chair Hardesty: I'm glad you're on the Commission. I'm glad we have your perspective. And if you feel that that's an important issue, you should raise it, and we should report on it, and we should debate it. That's why you're here.

Dr. Tyler-Gardner: And then, I want to say, from my role on – I think it's the Sheriffs' Advisory Committee, that I'm – I sit with Tod Story, where we had a number of incidents happen just in the community here, around individuals who had mental health challenges, officers were not equipped with the training, and it escalated, including to a loss of life. So, from that perspective, we kind of lived through it in some of the communities. And if indeed this legislation or the expectation is the attempt to ensure that folks are equipped with the skills, they need for that not to happen, that it was serious to me, from that perspective.

And so, if, indeed, it's just a resource issue, for me, it's important to understand kind of what the exact amount of the resource issue is. What is the timeline by this statute that we have to have it in place? And how do we begin problem solving, to get to some reasonable timeline that we could meet the expectation? Or are we saying, 'Take the expectation off the table'?

Chair Hardesty: Well, if you consider it a priority, as a Commissioner, then, other Commissioners should listen to you and hear what you're saying. And if we collectively, as a Commission, feel that it is a priority, we should report on it. That was what I was saying earlier. And to that point, it sounds as if there is a transparency and an accountability problem, with respect to this training that needs to be examined and considered. So, I'll ask staff to look at these statutes and give us an update as to what POST is mandatorily required to do, by statute, and what may be missing.

And to Mr. Logan's point – I prefer to call him Sheriff, the absence of accountability causes many of these things to fall off the shelf. So – and it's interesting that we already have a disconnect of an expectation of the Director of P&P and the need for additional training for her civilian staff, and yet, we may not have the vehicle to be able to accomplish that. It seems to me like all of those are issues that are important to what was the expectation of this bill when the Legislature passed it out. So, I think those are all valid questions, and we'll ask our staff to augment our information on this area with some of the statutory provisions.

Dr. Tyler-Garner: Thank you.

Chair Hardesty: So, we can continue this agenda item, Doctor, in future agendas.

Dr. Tyler-Garner: Thank you.

Chair Hardesty: Any other questions for Director Sherlock? Seeing none, thank you, Director, for being here today. We appreciate it.

Mr. Sherlock: Thank you.

11. Overview of Certain Crime Rates in Las Vegas (For discussion and possible action)

Chuck Callaway, Police Director, Las Vegas Metropolitan Police Department

Chair Hardesty: And I want to invite Director Callaway, now, to make a presentation. There are some materials in the handouts, but I thought his presentation that he sent to me about the enormous progress made by Metro and the Sheriff was worth us hearing about, toward the end of this meeting. So, Director, if you wouldn't mind, I would invite you to go over your presentation with the group.

Vice Chair Callaway: Thank you, Justice Hardesty. Back around the end of December, the statistics that this body has been distributed to came to my attention, and we were about two weeks from the end of the year. So, there were some additional crime numbers after this data was collected. I believe we had another homicide, after this data was collected, unfortunately, and some of the other numbers, obviously, have slightly changed. But I think this gives a pretty good overview of what our crime picture looks like for the Las Vegas Metropolitan Police Department's jurisdiction.

And I'm going to talk really fast, because I know we've been here a long time today, but I think there's some really important points contained within this data that I wanted to highlight. And just for reference, as most of you know, LVMPD, our agency, covers a jurisdiction of about 2,000,000 residents. We get about 50,000,000 tourists a year, on average. We have about 8,000 special events a month, or more. As you know, currently, this week, we've got a number of debates in town. We've got POTUS in town. A number of issues that our officers are handling in addition to their normal duties.

We handle about 3,000,000 calls for service a year. Depending on whose numbers you look at, we're around the 11th largest police department in the country, with about 6,000 employees. Our Analytical Section, which is responsible for collecting crime data in our jurisdiction, every year puts together a Strategic Plan, so to speak, of crime trends that our Bureau Commanders can take that information and put it to use in the field, to develop strategies and plans to reduce crime in their particular jurisdictions. As we know, each area command is unique, and one area command may have crime problems that another area command doesn't see, and vice versa.

So, what we've learned from – over the years, looking at that analytical crime data, is that, number one, we see that January and February of each year tends to be spikes in crime, for some reason. And we also have developed the information that there's about 11 persistent hot spots for violent crime, within our jurisdiction. And these hot spots are areas where we typically have the most violent crime calls for service. And so, as I said, that information's

passed on to our Bureau Commanders. They develop a strategy based on enforcement and non-enforcement, which they use to address that. And I'll get into more detail in a second, of what that looks like.

To quickly touch on the numbers, the data you have in front of you compares 2018 data, 2017 data, to 2019 data. Overall, our property crime has seen a decrease of about eight percent. We've seen a 22 percent decrease in burglary, about a 2 percent increase in theft, and about a 16 percent decrease in vehicle theft. But moving into violent crime, and this is the area that the Sheriff has made a commitment that it's his number-one priority is reducing violent crime in our neighborhoods and our communities and making our communities safer for not only our citizens but tourists as well, we've seen, since 2017, a shocking 22 percent decrease in violent crime.

And I'll bring to your attention that recent FBI statistics show that the nationwide average is a 4.6 decrease violent crime, so we are significantly above the national average, which shows me that this is not just the wave and flow that we see in trends, that sometimes crime's up, sometimes it's down, that this is a result of a number of factors. But significantly, the men and women that are out there, day to day, boots on the ground, addressing crime and also the partnerships we have, again, which I'll get to in a second, we've seen murder decrease by 41 percent. And we've seen a slight increase over the last year of sexual assault, by 12 percent, but compared to the 2017 numbers, it's still down 10 percent.

We've seen a robbery decrease of 44 percent and aggravated assault decrease of 15 percent. So, when we talk about murder, the murder rate, the shocking thing there is that our population continues to increase. And although our population continues to increase, in other major cities such as Chicago, Baltimore, areas like that, tend to see the homicide rate rising, we've seen a significant decrease in homicide rate, and our numbers have not been this low since 2011. Currently, our Homicide Section has a 90-percent solvability rate. The document you have, I believe, says 87 percent. It changes on a daily basis.

But as of just the day before yesterday, I believe we were at about a 90-percent solvability rate. The national average solvability rate is 62 percent. So, that means, you commit a murder in some other jurisdiction, you got a 40-percent chance, almost, of getting away with it, whereas, you commit a murder in our jurisdiction, there's a 90-percent chance you're going to be caught and held accountable for that. When I talked about the hot spots, we had 10 murders in hot spots in 2019, compared to 24 murders in our hot spots, in 2018. And we had a total 85 murders in 2019, compared to 121 in 2018.

I want to talk quickly about shooting victims. When we count shooting victims, these are individuals who are injured by a bullet fired from a gun, and it does not – it does not take into account for self-inflicted gunshots, and it does not take into account accidental gunshots. Those are not counted. Our shootings have declined, from 271 in 2017, to 210 in 2019. And

hot-spot shootings have decreased by 43 percent, compared to last year. Our robberies also continue to decline. We currently have almost a 23 percent reduction, compared to last year.

We had 20 robbery series in 2019, compared to 55 in 2017, and 29 in 2018. So, series, as you know, are a small crew that's going out and committing multiple robberies, and they're responsible for a number of robberies, but it's a small group of individuals doing it. Currently, we have a robbery clearance rate of about 85 percent, which, again, I don't know the national average on robbery clearance. But I believe we're higher than the national average there as well. Reasons for decrease in crime, these are some of the areas I really wanted to highlight and the reason I sent this information to Justice Hardesty and a few of our Legislators, was to highlight these areas.

First of all, More Cops. More Cops makes a huge difference on our streets. The studies show that when you have more officers on the street, crime goes down, and vice versa. When you have less officers on the street, crime goes up. The More Cops legislation that our Legislature helped us with, over the last few years, and the Crime Prevention Act and removing the Sunset on the More Cops legislation, has allowed us to hire over 900 officers since the recession. So, we are now back to about the 2-officers-per-1,000-citizen ratio that we were way below, during the recession.

Other issues that we believe are helping us fight crime is technology and high-tech crime fighting. To touch on that, just briefly, we embrace new technology at LVMPD. You've probably all heard of Shot Spotter. Shot Spotter's a technology that allows us to instantly hear when a gunshot goes off and send officers to that location. Through GPS, we know the exact location the gunshot was fired from. In the past, 64 percent of gunshots went unreported. Citizens just didn't report them. You get used to hearing gunshots in your neighborhood, and after a while, you just don't call the police anymore.

And what we found is, the person that's out in the street, shooting a gun in the air today, or driving down the street shooting a gun out the window today, and it doesn't hit anyone, is the same person that, then, is shooting someone the next day and ultimately committing homicide. So, we found that if we get in front of that, and through the Shot Spotter technology, we get officers out there immediately, we're collecting shell casings, we're looking for suspects, we're doing relentless follow-up. Shell casings that we gather are put into the National Integrated Ballistics Information Network (NIBIN) System, which, again, last Legislative Session, there was a bill that mandated law enforcement agencies in the State use the federal system of NIBINS, to catalog and collect data on shell casings to connect crimes.

That information alone is helping us solve a lot of crimes and getting people in custody that otherwise would have graduated to more violent crime, other than just shooting firearms off into the air or into neighborhoods. Our Southern Nevada Counter-Terrorism Section real-time cameras, which you probably have seen around town, they have the big, flashing red and blue

lights on 'em, they're real-time, live camera feed to our Fusion Center. When we have these hot spots, where crime is consistently occurring, we have a park where, say, people are – have had – have been robbed or had their property stolen, we put one of these cameras up in the park. Everyone knows it's a police camera, but it significantly helps us reduce crime.

On the Strip, it's helped us solve a lot of crimes. We had one case in particular where a person was a victim of a trick roll. The person that committed the crime fled the casino and got into a cab. Through the crime camera, we were able to see the number on the cab and follow that cab to the location of where it dropped the suspect off and subsequently take her into custody. Another technology that we're using is facial recognition. I know on a national level, facial recognition is getting a lot of pushback for privacy reasons, and we're very cognizant of that. And our system is based solely on jail photographs, and it's based solely on using facial recognition to develop reasonable suspicion, to follow up. It's a tool that gives us an investigative lead. It's not probable cause.

And it's basically comparing one photograph we have of someone to another photograph we have of someone, through a computer database that looks at facial features and determines the probability of whether or not those pictures are the same person. And then, we have the ability to send a Detective out and do follow-up on that, to verify. We had a sexual assault that occurred at the Venetian, a few weeks ago. Through facial recognition, we were able to compare a snapshot of that person from surveillance video to booking photos, and within 24 hours, we had that sexual assault suspect in custody, as a direct result of facial recognition technology.

DNA has been a huge success for us since several Legislatures ago, when mandatory DNA for all felony arrestees went into place. I don't have the specific numbers with me today, but I know we've had a number of hits on DNA, and we've solved a significant amount of crime through DNA. And then, computer forensics, we've actually established at Metro a Computer Forensics Unit that that's their sole job, is to – technology looking at – when we make an arrest, and the suspect has – say, they're involved in child pornography. This Unit has the ability to extract data that otherwise they would not be able to extract from devices such as cell phones and laptops and that sort of technology.

Moving on, again, I'm trying to talk fast, but – I apologize for that. But I talked about crime-fighting strategies. One of the huge components of crime-fighting strategies is our partnerships. We have a very close partnership with UNLV. In fact, some folks from UNLV Criminal Justice Section came to our headquarters for one of our action meetings and provided a very good presentation on research that's being done not only in Las Vegas but in Cincinnati as well. Part of that strategy involves getting Captains engaged in their areas.

As you know, the Sheriff, when he took office, one of the first things he did was decentralize our Detective Bureau. So rather than having Detectives in the Ivory Tower, so to speak, an

officer in the field takes a report, and that report works its way up over several days and finally gets to a Detective, who's got a caseload on his desk this big, and eventually he gets to it, and by then, two months have gone by. Victim thinks that law enforcement doesn't care. Suspect's committed another 15 burglaries. Now, those resources are pushed down to the Bureau level, Detectives are more engaged. They're often responding right out to the scene with the Patrol Officer. They're getting real-time information.

And we've seen huge success in solvability of burglaries and also timeframe of how fast the Detectives are working on those cases. In law enforcement, you often hear of the 80/20 rule, and I touched on that with the robbery series that we have. But when we talk about hot spots, and we talk about the 80/20 rule, what you find is, is that a lot of time 80 percent of your crime is committed by 20 percent of the suspects. So, when you find those 20 percent that are out there, victimizing people, committing your robberies, committing your burglaries, and you get them off the street and hold them accountable, you see a significant decrease in your crime. And so, that's an area of focus.

Networking, another thing that UNLV brought to our attention, that we're looking at, and I – based – I believe this was based on a study in Cincinnati. For example, you have a lot of violent crime that's occurring at a convenience store. And typically, officers respond, they go to the convenience store, we take a report, people go to jail, people go to the hospital, and we – we're constantly responding to the convenience store. But when you start looking at the networks, you find out that, across the street from the convenience store, there's a drug house. There's a house that's being used to sell narcotics. And up the street from the convenience store, on the other side, there's a chop shop, where someone's taking stolen cars and ripping them apart, selling the pieces of the cars.

And you start looking at these factors, and it just so happens that that convenience store is centrally located between these other crime spots that are networks. And so, instead of constantly responding to the – to the convenience store, to address crime, you're takin' a proactive approach and looking at where some of these issues are actually originating from, and then, you see the crime start to decrease at the convenience store, when you're looking at the source, rather than just responding to the incidents as they occur. And it comes down to problem-solving policing, and evidence-based policing, which, in the world of policing, we've been talking about this for decades.

But it's really being proactive and trying to solve crime and solve problems, versus just responding to them. And we can't do it by ourselves. The partnerships I've talked about are extremely important. We need help from City, from County. Business Licensing in both the City and the County are huge assets to us. When we have a problem, say, a nightclub where we're having shootings or we're having incidents occurring at those places, being able to get to the City and have the City pull licenses or put restrictions on those businesses, to get the owners to comply with us is huge.

So, having those partnerships is extremely important, having partnerships with education, both the school district and higher education, and then, other law enforcement agencies in the State that we work with. We've put together an Office of Community Engagement that goes out routinely and works with our community at various degrees. They attend functions. We have – of course, everyone knows our First Tuesday event, which, every first Tuesday of the month, citizens can come to their Bureau Commands and meet the officers, face to face, that work their area. They can bring up concerns they have in their neighborhoods to the Bureau Commander.

We have a strong faith-based Community Intervention Program, where, if we have a shooting in a neighborhood that may be gang related, our officers go out with the faith-based community, and we do intervention. We talk to people in the neighborhood, and we try to reduce, you know, responses or retaliation to that shooting. And that's been very effective. We've seen the benefits of that. And then, again, community policing at a Bureau level, you know, making sure that the Bureaus have the tools and resources that they need to fight violent crime, rather than the top-down strategy.

So, I think that we have a good story to tell, but the future is that there's a lot more work to be done. Reducing violent crime remains a top priority for the Sheriff and for LVMPD. I think that we're a very forward-thinking agency. We're always looking for new ways to tackle crime in general and specifically violent crime. We're looking at new ways to partner with the community. We know that many of these issues that we talk about, such as homelessness, we can't arrest our way out of those issues. Mental health, we can't arrest our way out of those issues. We need to look at other sources and other avenues.

To the points that were made earlier by POST, I believe that our agency – every officer that goes through the Police Academy gets CIT training, and then they have follow-up training that's done through what we call UMLV, which is our online training program. Most of that training is – people get POST Certification for taking it. We also have civilians that are POST Certified for – and certified for – not POST Certified, I'm sorry, I'm talking too fast, CIT Certified. So, I'd be happy to have some of our folks -- if the Commission feels the need to have some of our CIT folks come in and provide a more in-depth discussion of what we do to address mental health and behavioral health issues, from our agency.

And then, I'll finish with this. I guess the term I would use is I'm optimistically cautious about the Criminal Justice Reform that's coming. I worked very closely with the Legislature to – we all know that the legislative process is a negotiation. And I believe that everybody negotiated on AB 236 in good faith. Nobody got exactly what they wanted out of that bill. I think it turned out to be a good balance. But with that being said, in particular, the significant increase in the drug trafficking levels, I'm concerned about how that may impact our violent crime numbers, moving forward, and our property crime numbers, moving forward. Only time will tell.

So, with that, before I take any questions, as of this year, so far to date, these are the numbers I got this morning. We've had 7 homicides in our jurisdiction since January 1st. We had the same number this time this year in 2019. Unfortunately, we've had 18 traffic fatalities in our jurisdiction, compared to 14 last year, and our Traffic Section and our Bureau Commands are aggressively working on ways to try to address that issue. And then, we've had a slight uptick this year also of aggravated assaults. But our shooting victims are down, 28 this year, compared to 33 last year.

So, sorry I talked fast. With that, I'd be happy to answer any questions.

Chair Hardesty: Thank you, Director. I did have one question. I guess it's maybe the accountant in me that asks this. But to what extent are the victims of October 1 included in those numbers?

Vice Chair Callaway: In our reporting, we did not include – we had a lot of discussion about that. We did not include them in our homicide numbers. The reason for that was, we looked at what other jurisdictions had done, such as Parkland, and the standard across the country was typically a – jurisdictions do not – they treat 'em as an isolated violent crime, you know, mass- casualty event, and they don't count those numbers as their standard crime numbers for the year. So, you know, obviously, if you throw those numbers in, it really has a significant change on where you're at, in crime numbers.

Chair Hardesty: Sure. Thank you very much. I appreciate the clarification. Are there any other questions for Director Callaway?

Assemblywoman Nguyen: Every time I see statistics, I know that they, you know, present a picture that you kind of want them to present. So, do you have, like, disaggregated data, based on race or gender, for all of these, like, statistics as well? And – that's my first question.

My second one, kind of related, is, you broke down, like, the decrease. And it seems like it's a decrease just generally, across the board, at least from 2017 to 2019. But do you have that by population, like you do with the murder rates? Because it seems like it would be going down, even more so, because you just have, like, numbers, based on the – like, the property crimes or the theft crimes. It appears to be going up, but is it really in fact going down, by percentage of population?

Vice Chair Callaway: That's a great question. Obviously, that information that you're asking is not contained in this document. Our Analytical Section, I'm sure, could pull that data. In regards to demographics, such as race or sex, that data, we have it, because when someone files a report, you know, unless they choose not to fill that box in, there's typically a box on the report for, you know, race, demographics. Sometimes people don't want to fill that in. But it would require our Analytical Section to go back and pull all those reports and collect that data

from each report.

On the jail side, we do collect that data upfront. But on the crime side, I don't believe we're currently collecting that data, on the front end. We could get it, but it would require some work to go in and pull those numbers, if that answers your question.

Dr. Tyler-Garner: Under new ordinance around citation of the homeless, do you anticipate needing additional training and support, based on the nature of that population and the likelihood that the contact would increase?

Vice Chair Callaway: That's a great question, too. We don't anticipate needing any more resources for the new homeless ordinance. First of all, on that ordinance, we've worked very closely with the City on it. Enforcement for us is an absolute last resort. We have what we call our MOR Team, which is Mobile Outreach Team that goes out on a daily basis and interacts with the homeless community. Our goal is to get them help, get them treatment, get them off the street and address whatever underlining issues have led to their homelessness.

Now, with that being said, I think the City Attorney said it best, during the hearings at the City Council, when he made the comment that – you know, that, yes, being homeless is horrible, and we want to get people help, and we want to get them off the street and get them into housing. But by the same token, because you're homeless doesn't mean that you can just set – I can't just set up camp and – you know, on your front lawn, or I can't set up camp in front of someone's business, when they're – you know, they're running a restaurant, and you have people, you know, defecating on the sidewalk, in front of that – the restaurant.

So, there needs to be a balance. Our officers will enforce, if need be, but that's only as a last resort, when we've given a warning, and we've given options, and the person just refuses to accept those options.

Chair Hardesty: I would like to turn to Mr. Hicks and ask if he could canvass the police agencies in Washoe County and collect the statistics that have been provided, to the extent that they're available, by Mr. Callaway to the Commission, maybe at the next meeting or whenever is convenient, during that same period of time. Would that be possible, Chris?

Mr. Hicks: I will certainly reach out to the agencies and see what they can pull together for us and report back to you.

Chair Hardesty: Great. I think it'd be useful to see what's happening in the other urban county as well.

12. Discussion of Potential Topics for Future Meetings (For discussion and possible action)

Chair Hardesty: Under item 12, it inquires about potential topics for future meetings. Let me just ask or suggest this. First of all, if anybody would like to comment about that now, they can, but I don't want you to feel foreclosed from offering other topics. So, what I would request is if you have topics, please convey them to the Executive Director, directly. I don't want to violate the Open Meeting Law. Don't collaborate. Don't, you know, get together in teams. You'll get us all in trouble.

Send your own suggestions to the Executive Director, and she and I will go over those topics, and we'll decide those and prioritize those in connection with other work that we need to do. Our next meeting is April the 29th, I believe, Victoria, and we will have another very robust session, at that time.

13. Public Comment (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Commission will impose a time limit of three minutes).

Chair Hardesty: Is there any public comment for the Sentencing Commission. Seeing none. Thank you very much.

14. Adjournment (For possible action)

Chair Hardesty: We'll adjourn the meeting. And thank you all for your participation. Appreciate it.

**NEVADA SENTENCING COMMISSION
SUPPORTING MATERIALS
FOR APRIL 29, 2020 MEETING**

Agenda Item 4C:

NRS 176.01343 Tracking and assessment of outcomes resulting from enactment of chapter 633, Statutes of Nevada 2019. [Effective July 1, 2020.]

1. The Sentencing Commission shall:

(a) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data from the Department of Corrections:

(1) With respect to prison admissions:

(I) The total number of persons admitted to prison by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age and, if measured upon intake, risk score;

(II) The average minimum and maximum sentence term by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score; and

(III) The number of persons who received a clinical assessment identifying a mental health or substance use disorder upon intake.

(2) With respect to parole and release from prison:

(I) The average length of stay in prison for each type of release by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons released from prison each year by type of release, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(III) The recidivism rate of persons released from prison by type of release; and

(IV) The total number of persons released from prison each year who return to prison within 36 months by type of admission, type of release, type of return to prison, including, without limitation, whether such a subsequent prison admission was the result of a new felony conviction or a revocation of parole due to a technical violation, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score.

(3) With respect to the number of persons in prison:

(I) The total number of persons held in prison on December 31 of each year, not including those persons released from a term of prison who reside in a parole housing unit, by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons held in prison on December 31 of each year who have been granted parole by the State Board of Parole Commissioners but remain in custody, and the reasons therefor;

(III) The total number of persons held in prison on December 31 of each year who are serving a sentence of life with or without the possibility of parole or who have been sentenced to death; and

(IV) The total number of persons as of December 31 of each year who have started a treatment program while in prison, have completed a treatment program while in prison and are awaiting a treatment program while in prison, by type of treatment program and type of offense.

(b) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to the following data, which the Division shall collect and report to the Sentencing Commission:

(1) With respect to the number of persons on probation or parole:

(I) The total number of supervision intakes by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The average term of probation imposed for persons on probation by type of offense;

(III) The average time served by persons on probation or parole by type of discharge, felony category and type of offense;

(IV) The average time credited to a person's term of probation or parole as a result of successful compliance with supervision;

(V) The total number of supervision discharges by type of discharge, including, without limitation, honorable discharges and dishonorable discharges, and cases resulting in a return to prison;

(VI) The recidivism rate of persons discharged from supervision by type of discharge, according to the Division's internal definition of recidivism;

(VII) The number of persons identified as having a mental health issue or a substance use disorder; and

(VIII) The total number of persons on probation or parole who are located within this State on December 31 of each year, not including those persons who are under the custody of the Department of Corrections.

(2) With respect to persons on probation or parole who violate a condition of supervision or commit a new offense:

(I) The total number of revocations and the reasons therefor, including, without limitation, whether the revocation was the result of a mental health issue or substance use disorder;

(II) The average amount of time credited to a person's suspended sentence or the remainder of the person's sentence from time spent on supervision;

(III) The total number of persons receiving administrative or jail sanctions, by type of offense and felony category; and

(IV) The median number of administrative sanctions issued by the Division to persons on supervision, by type of offense and felony category.

(c) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to savings and reinvestment, including, without limitation:

(1) The total amount of annual savings resulting from the enactment of any legislation relating to the criminal justice system;

(2) The total annual costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019, as calculated pursuant to [NRS 176.01347](#); and

(3) The entities that received reinvestment funds, the total amount directed to each such entity and a description of how the funds were used.

(d) Track and assess trends observed after the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data, which the Central Repository for Nevada Records of Criminal History shall collect and report to the Sentencing Commission as reported to the Federal Bureau of Investigation:

(1) The uniform crime rates for this State and each county in this State by index crimes and type of crime;

and

(2) The percentage changes in uniform crime rates for this State and each county in this State over time by index crimes and type of crime.

(e) Identify gaps in this State's data tracking capabilities related to the criminal justice system and make recommendations for filling any such gaps.

(f) Prepare and submit a report not later than the first day of the second full week of each regular session of the Legislature to the Governor, the Director of the Legislative Counsel Bureau for transmittal to the Legislature and the Chief Justice of the Nevada Supreme Court. The report must include recommendations for improvements, changes and budgetary adjustments and may also present additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.

(g) Employ and retain other professional staff as necessary to coordinate performance and outcome measurement and develop the report required pursuant to this section.

2. As used in this section:

3. "Technical violation" has the meaning ascribed to it in [NRS 176A.510](#).

4. "Type of admission" means the manner in which a person entered into the custody of the Department of Corrections, according to the internal definitions used by the Department of Corrections.

5. "Type of offense" means an offense categorized by the Department of Corrections as a violent offense, sex offense, drug offense, property offense, DUI offense or other offense, consistent with the internal data systems used by the Department of Corrections.

**NEVADA SENTENCING COMMISSION
SUPPORTING MATERIALS
FOR APRIL 29, 2020 MEETING**

Agenda Item 4D:

NRS 176.01347 Development of formula to calculate costs avoided by enactment of chapter 633, Statutes of Nevada 2019; submission of statements and reports regarding costs avoided.

1. The Sentencing Commission shall develop a formula to calculate for each fiscal year the amount of costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019. The formula must include, without limitation, a comparison of:

(a) The annual projection of the number of persons who will be in a facility or institution of the Department of Corrections which was created by the Office of Finance pursuant to [NRS 176.0129](#) for calendar year 2018; and

(b) The actual number of persons who are in a facility or institution of the Department of Corrections during each year.

2. Not later than December 1 of each fiscal year, the Sentencing Commission shall use the formula developed pursuant to subsection 1 to calculate the costs avoided by this State for the immediately preceding fiscal year because of the enactment of chapter 633, Statutes of Nevada 2019, and submit a statement of the amount of the costs avoided to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

3. Not later than August 1 of each even-numbered year, the Sentencing Commission shall prepare a report containing the projected amount of costs avoided by this State for the next biennium because of the enactment of chapter 633, Statutes of Nevada 2019, and recommendations for the reinvestment of the amount of those costs to 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. In preparing the report, the Commission shall prioritize providing financial support to:

(a) The Department of Corrections for programs for reentry of offenders and parolees into the community, programs for vocational training and employment of offenders, educational programs for offenders and transitional work programs for offenders;

(b) The Division for services for offenders reentering the community, the supervision of probationers and parolees and programs of treatment for probationers and parolees that are proven by scientific research to reduce recidivism;

(c) Any behavioral health field response grant program developed and implemented pursuant to [NRS 289.675](#);

(d) The Housing Division of the Department of Business and Industry to create or provide transitional housing for probationers and parolees and offenders reentering the community; and

(e) 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 of persons involved in the criminal justice system.

4. Not later than August 1 of each even-numbered year, the Sentencing Commission shall submit the report prepared pursuant to subsection 3 to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Agenda Item 5(B):

Summary of Subaward Request Totals to Date

	Requests (w DOC FTEs)	Requests (w DOC contractors)	Related NRS Sections
State Requestors			
NDOC	\$274,292.00	\$266,493.00	NRS 176.01343, 176.01347, 209.1315, 209.341, 209.3925, 209.511, 213.12155, 213.1543, 213.107, 213.1078, 213.1095, 213.1215, 213.131, 213.133 and 213.140
Parole and Probation	\$75,142.84	\$75,142.84	NRS 176.01343 and 213.1078
POST	\$32,289.00	\$32,289.00	NRS 289.510, 289.650 and 289.675
Total State Requests	\$381,723.84	\$373,924.84	
Local Requestors			
WCDA	\$89,386.00	\$89,386.00	N/A
Total Local Requests	\$89,386.00	\$89,386.00	
Total All Requests	\$471,109.84	\$463,310.84	
Original Amount Available	\$350,000.00	\$350,000.00	
Difference if Fully Fund Requests	(\$121,109.84)	(\$113,310.84)	
Additional Subaward	\$78,000.00	\$78,000.00	
New Subaward Total	\$428,000.00	\$428,000.00	
Difference if Fully Fund Requests	(\$43,109.84)	(\$35,310.84)	

NEVADA JRI SUBAWARD REQUEST FORM

Please complete the following information and submit the form to Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov by April 1, 2020. If you are submitting a request for multiple projects, use a separate request form for each and note which request is the highest priority.

If you have any questions as you complete the request, contact Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov.

Applicant Information	
Applicant organization:	Nevada Department of Corrections
Applicant address:	5500 Snyder Avenue, Bldg. 17 Carson City, NV 89701
Point of contact name:	Brian Williams, Deputy Director
Point of contact email:	bwilliams@doc.nv.gov
Point of contact phone:	702-879-9990

Project Information	
Title of project:	AB236
Proposed project start date:	May 1, 2020
Proposed project end date:	September 31, 2021
Total amount requested:	\$266,493.00

Project Narrative
<p><i>Why do you need these funds and what will you do with them? Describe the proposed use of the funds requested and how that use will support JRI Implementation. If requesting funds to support personnel or contractors, specify the qualifications, roles, and responsibilities for the position(s) or contractor(s).</i></p> <p>With the passing of Assembly Bill 236, the Nevada Department of Corrections was mandated to take action in regards to Performance Metrics (sect. 6-7); Training of Correctional Staff (sect. 89); Risk and Needs Assessment (sect. 90); Medical Release (sect. 91); and Re-entry (sect. 92-100).</p> <p>NDOC is requesting two positions to create a Quality Assurance department, as they currently have no staff members dedicated to this work. These two positions are critical to the NDOC's ability to monitor and ensure compliance to these Justice Reinvestment Initiatives.</p> <p>While NDOC is able to monitor data on their programs, it does not currently have the capacity to ensure the data reported is accurate. These two positions would allow NDOC to ensure data reported on programming is accurate, and provide guidance to agency staff in charge of reporting that data. Both of these positions will be utilized to:</p>

- Provide technical guidance to agency staff regarding quality assurance/improvement activities and requirements;
- Ensure agency/facility staff compliance;
- Develop quality assurance/improvement criteria and methodology;
- Coordinate self-assessments using Nevada Revised Statute and Nevada Department of Corrections standards;
- Research, develop and collate data for informational packets;
- Coordinate, write, and organize information incorporated into official corrective action plans submitted by the agency in response to reviews, audits or statements of deficiencies and findings;
- Prepare narrative and statistical reports for management;
- Participate in budget preparation for area of responsibility; and
- Monitor and control expenditure of funds for staffing, equipment, supplies and other areas as required.

Qualified candidates for these positions will meet State of Nevada Department of Human Resources Class Specifications with the Quality Assurance Specialist in the supervisory role and the Program Officer II in the support role: Quality Assurance Specialist III-Class Specification 10.241; Program Officer II-Class Specification 7.647 (attached).

NOTE: NDOC is submitting two versions of this request: one in which the staff hired to do this work are full-time employees, and the other in which they are contract positions. NDOC has a strong preference to hire these staff as full-time employees. This work is essential to successful implementation of AB 236, and NDOC will be requesting funding for these positions in their budget after the grant period. However, if funding does not allow for the two positions to be full time employees, NDOC would hire contract positions instead.

Budget

Budget Category	Amount
Personnel/Direct Labor	\$0
Fringe	\$0
Travel	\$14,542
Equipment	\$4,766
Supplies	\$2,456
Informational Service/OTH	\$5,342
Consultants/Contracts	\$239,387
Total Project Costs	\$266,493

Budget Narrative

For each applicable budget category above, briefly describe the proposed expenses, how you estimated the costs and why those costs are necessary for the completion of the proposed project.

Quality Assurance Specialist III 38-7 (Salary, Fringe, Associated costs based on contract quote)

YR 1 – \$55,539 Salary – \$19,324 Fringe

4 Months (June 20, July 20, Aug 20, Sept 20) \$24,684 salary + \$7,652 MSA fee = \$32,336.00

Associated costs: \$711 Operating, \$2,383 Equipment, \$2,278 Informational Services = \$5,372.00

Travel-Quarterly Fidelity Audits: \$1,561.86 for Standard (w/vehicle) = 1 trip: \$1,562.00

YR2 – \$76,828 Salary – \$23,817 MSA fee = \$100,645.00

Associated costs: \$517 Operating, \$393 Informational services = \$910.00

Travel-Quarterly Fidelity Audits: \$1,561.86 for Standard (w/vehicle) = 4 trips: \$6,247.00

Program Officer II 33-7 (Salary, Fringe, Associated costs based on contract quote)

YR1 – \$44,484 Salary – \$16,927 Fringe

4 Months (June 20, July 20, Aug 20, Sept 20) \$19,771 salary - \$6,129 MSA fee = \$25,900.00

Associated costs: \$711 Operating, \$2,383 Equipment, \$2,278 Informational Services = \$5,372.00

Travel-Quarterly Fidelity Audits: \$1,346.50 for Standard (wo/vehicle) = 1 trip: \$1,347.00

YR2 – \$61,455 Salary – \$19,051 MSA fee = \$80,506

Associated costs: \$517 Operating, \$393 Informational services = \$910.00

Travel-Quarterly Fidelity Audits: \$1,346.50 for Standard (wo/vehicle) = 4 trips: \$5,386.00

Travel and associated costs are essential components for these new positions to complete the duties they will be assigned in support of AB236 and the Justice Reinvestment Initiative effort of the NDOC and State of Nevada. These are the same elements that would be included in new position requisitions submitted via departmental budget submissions.

NEVADA JRI SUBAWARD REQUEST FORM

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If you have any questions as you complete the request, contact Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov.

Applicant Information	
Applicant organization:	Department of Public Safety Division of Parole and Probation
Applicant address:	215 E Bonanza Rd Las Vegas, NV. 89101
Point of contact name:	Sergeant Nicole Rosales
Point of contact email:	nrosales@dps.state.nv.us
Point of contact phone:	(702) 776-1501

Project Information	
Title of project:	Nevada Risk Assessment System Enhancement
Proposed project start date:	May 1, 2020
Proposed project end date:	May 1, 2021
Total amount requested:	\$75,142.84

Project Narrative
<i>Why do you need these funds and what will you do with them? Describe the proposed use of the funds requested and how that use will support JRI Implementation. If requesting funds to support personnel or contractors, specify the qualifications, roles, and responsibilities for the position(s) or contractor(s).</i>
<p>Through attrition, the Division of Parole and Probation is losing our staff currently trained in the Nevada Risk Assessment System (NRAS). We have lost approximately 125 staff trained in NRAS, 5 of which were instructors. The Division's current contract is set to complete/expire with the University of Cincinnati on June 30, 2020, and time is running short to facilitate the training of new instructors or complete a master trainer course in this program. This program was implemented in order to better understand the risk, needs, and responsibility of adults under parole or probation supervision. This allows the Division to focus on higher risk behaviors with targeted programming in the hopes of lowering recidivism. The additional funding would not only assist the Division in creating a succession plan for this program through master trainers, it would also aid in the development of our current tracking methods to ensure a seamless transition for individuals through sentencing, probation, incarceration, parole, as well as tracking recidivism. Additionally, the funds will be utilized for implementation of new requirements added by AB 236, NRS 213.1078 as well as associated sustaining costs. The NRAS developer, UC, will provide the initial program of Master Trainer</p>

which includes their travel, training, and supplies. This one course will create four Master NRAS Instructors for the State of Nevada and thereby creating an additional 24 instructors.

Budget	
Budget Category	Amount
Personnel/Direct Labor	\$0
Fringe	\$0
Travel	\$0
Equipment	\$0
Supplies	\$0
Consultants/Contracts	\$75,142.84
Total Project Costs	\$75,142.84

Budget Narrative
<p><i>For each applicable budget category above, <u>briefly</u> describe the proposed expenses, how you estimated the costs and why those costs are necessary for the completion of the proposed project.</i></p>
<p>ORAS Master Trainer Course - \$36,000.00 Includes: all travel expenses, training materials for staff of the University of Cincinnati Corrections Institute (UCCI) to travel to Las Vegas and complete training. This training will create 4 master trainers in NRAS statewide and an additional 24 trainers. The total cost was obtained from UCCI directly and is necessary to create a sustainable training plan for future staff of the Division.</p>
<p>Assessment Tracking Enhancements - \$39,142.84 Includes: enhancements to improve ease and efficiency of assessment entry, and to allow both NDOC and NPP to access assessments and track an individual through the system; clean printing ability; and enhancement of override feature and tracking. This cost was obtained from EITS as the original creators of the NRAS tracking tool. This will also allow other agencies to view and enter assessments.</p>

NEVADA JRI SUBAWARD REQUEST FORM

Please complete the following information and submit the form to Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov by April 1, 2020. If you are submitting a request for multiple projects, use a separate request form for each and note which request is the highest priority.

If you have any questions as you complete the request, contact Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov.

Applicant Information	
Applicant organization:	Commission on Peace Officer Standards and Training (POST)
Applicant address:	5587 Wa Pai Shone Ave. Carson City, NV 89701
Point of contact name:	Mike Sherlock
Point of contact email:	msherlock@post.state.nv.us
Point of contact phone:	775-687-3320

Project Information	
Title of project:	AB 236 Implementation
Proposed project start date:	July 1 2020
Proposed project end date:	June 30, 2021
Total amount requested:	\$32,289.00

Project Narrative	
<i>Why do you need these funds and what will you do with them? Describe the proposed use of the funds requested and how that use will support JRI Implementation. If requesting funds to support personnel or contractors, specify the qualifications, roles, and responsibilities for the position(s) or contractor(s).</i>	
<p>AB 236 (Crime Bill) directs POST to develop and implement training, manage delivery of training and/or funds for training, collect and report data, coordinate with HHS, develop a peer review group and create a standardized training program as outlined in Section 107 of the Crime Bill. The bill also directs law enforcement agencies to develop policy regarding behavior health calls for service. Law enforcement agencies, particularly rural agencies, look to POST to assist in these issues and for model policies. POST will be requesting a grant manager position in the next biennium via the regular budget process. Funds requested here will be used to establish a part-time training specialist position to develop the groundwork for the entire program. This includes the development of training, model policy, grant application parameters and election process, establish a peer review panel, develop industry best practice parameters through research and onsite visits of states/agencies that currently have such a program. Without the infrastructure for the mandates found within AB 236, the hiring of a grant management position would be difficult at best to utilize for the purpose intended. With a part-time training specialist laying the groundwork, the grant management</p>	

position will be able to implement the mandates immediately and thus get the benefits to the community much faster. This program building, part time position is critical to meeting the intent of the crime bill. By funding this part time position, it enhances the justification for POST's request for the addition of a grant manager position in our next biennium budget. We are currently in budget building for this.

Budget	
Budget Category	Amount
Personnel/Direct Labor	
Fringe	
Travel	\$4689.00
Equipment	\$1600.00
Supplies	
Consultants/Contracts	\$26,000.00
Total Project Costs	\$32,289.00

Budget Narrative
<p><i>For each applicable budget category above, <u>briefly</u> describe the proposed expenses, how you estimated the costs and why those costs are necessary for the completion of the proposed project.</i></p> <p>\$26,000 would be used to fund a part time position (about 1,000 hours) designated as a training specialist. The budgeted amount allows a bigger pool of applicants, to include retired individuals and others, who have expertise both in curriculum development and law enforcement along with the ability to consult with others, to include HHS.</p> <p>\$4689 would allow at least 3 in state travel incidents to assist rural agencies in policy development and observe best practices with agencies that have a behavior health response plan. It would also allow 2 out of state travel incidents to observe best practices from other state/agencies with extensive history in things such as behavior health response teams.</p> <p>\$1600.00 would include the cost of a workstation/computer and related equipment. Office space to be provided with existing POST resources. It should be noted the office/equipment could transfer into the full-time grant manager position requested through our budgetary process.</p>

NEVADA JRI SUBAWARD REQUEST FORM

Please complete the following information and submit the form to Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov by April 1, 2020. If you are submitting a request for multiple projects, use a separate request form for each and note which request is the highest priority.

If you have any questions as you complete the request, contact Victoria Gonzalez by email at vfgonzalez@ndsp.nv.gov.

Applicant Information	
Applicant organization:	Washoe County District Attorney's Office
Applicant address:	One South Sierra Street, Reno, NV 89501
Point of contact name:	Lori Fralick
Point of contact email:	lfralick@da.washoecounty.us
Point of contact phone:	(775) 328-3218

Project Information	
Title of project:	AB 236 Implementation Coordinator
Proposed project start date:	05/18/2020
Proposed project end date:	6/30/2021
Total amount requested:	\$ 89,386

Project Narrative	
<i>Why do you need these funds and what will you do with them? Describe the proposed use of the funds requested and how that use will support JRI Implementation. If requesting funds to support personnel or contractors, specify the qualifications, roles, and responsibilities for the position(s) or contractor(s).</i>	
<p>Implementation Coordinator. The Implementation Coordinator will be responsible for working with Washoe County District Attorney prosecutors, victim advocates, IT staff, and administrative staff regarding the implementation of Assembly Bill 236. The Coordinator's duties will include:</p> <ol style="list-style-type: none"> 1) Training for Attorneys and Support Staff: Working with deputy district attorney (s), the Coordinator will assist and support the development of separate training materials and presentations attendant to the enactment of AB 236. Due to the current COVID-19 epidemic, training materials must be remotely accessible to attorneys, support staff, and victim advocates if necessary. The Washoe County District Attorney's Office currently has access to a secure method of streaming live content, and the capability to record such content for subsequent remote viewing. 	

Training content will include:

- information for attorneys and victim advocates regarding substantive changes to the Nevada Revised Statutes regarding prohibited acts, categories of offenses, sentencing ranges, and diversion eligibility.
- explanation for attorneys and victim advocates of national and/or local evidence and data regarding penalty reduction and increased diversion eligibility for certain crimes, including data received from JRI regarding goals of improving recidivism and desistance outcomes.
- practical training for legal support staff on changes to charging documents, NOC codes, and revision of Nevada Revised Statutes as it impacts support staff's regular duties.

2) **Substantive Changes to Case Management Systems:** The Coordinator will work with IT and support staff to identify and input changes applicable to auto-generated documents, including charging documents and guilty plea memoranda in order to conform the computer case management system to substantive changes in Nevada Revised Statutes related to AB 236.

3) **Data Tracking and Analysis:** The Coordinator will identify key categories of data collection related to implementation of AB 236, and work with attorneys, support staff, and IT staff to develop effective methods of collecting data related to recidivism reduction, offense rates, and diversion outcomes. This will include communication with the Courts to ensure accurate data points are met. The Coordinator will analyze the data and prepare related visual and written materials for attorneys and administration. Quarterly reports and an Annual Report will be compiled.

Qualifications:

- Excellent analytical and writing skills
- Knowledge of personal computers and software, Microsoft Office suite and Adobe Acrobat office products is desired
- Dedication to promptness and excellent work product
- Knowledge of and experience with legal research methodology
- Paralegal experience or graduation from an accredited law school preferred

Budget	
Budget Category	Amount
Personnel/Direct Labor	\$70,560 – (2,352 x \$30 per hour) Begin work on 5/18/20 and work to 6/30/21 2520 total workable hours. Minus 80 hours unpaid leave for 2 weeks of vacation and 11 holidays the office is closed is 88 hours. 2520 – 168 brings the total to 2,352 hours.
Fringe	\$18,826 – Staffing agency administrative/payroll costs @ \$8 per hour x 2352
Travel	0
Equipment	0 – See below in-kind donation
Supplies	0
Consultants/Contracts	0
<i>Total Project Costs</i>	<i>\$89,386</i>

Budget Narrative

For each applicable budget category above, briefly describe the proposed expenses, how you estimated the costs and why those costs are necessary for the completion of the proposed project.

Given the recent COVID-19 Pandemic, we checked with Human Resources and will not be hiring a full-time County employee with benefits do to the uncertainty. However, we can hire through a staffing solutions company and bring someone on through that agency for a little over one year. The above budget reflects that cost and the intended pay we have decided on based on the skillset we are seeking. The WCDA anticipates the equivalent of a Law Clerk or high-level paralegal. We are wanting the position to start on 5/18/20 and get trained on the case management system, AB236, develop reports with the Information Technology staff here and prepare to start data collection and training on 7/1/20 and continue to 6/30/21 to fully implement, train and gather a full year of data. If the approval takes up to three months as the notice of funding opportunity states, the funding amount necessary would be adjusted accordingly.

The Washoe County District Attorney’s Office will provide the following costs and equipment for start up as an in-kind donation to this grant funding.

Hardware/Workstation:

Annual: Justware license	\$500
PC Desktop	\$600
(2) 22” Monitors -	\$320
Workstation -	<u>\$4,500</u>
TOTAL	\$5,920

Strategies for Keeping Facilities and People in Custody Safe during COVID-19

Updated (4/17/2020)

Jails, detention centers, and prisons are modifying operations to respond to critical needs related to COVID-19. A review of Department of Corrections' COVID-19 responses identified 12 common practices states are using to respond to this pandemic. These practices include:

1. Developing a pandemic plan or protocol;
2. Educating staff, inmates, and the public;
3. Restricting movement;
4. Reducing the cost of communication for incarcerated people;
5. Eliminating medical co-pays for incarcerated people;
6. Providing services and supplies at no cost;
7. Screening of incarcerated people;
8. Screening of staff and vendors;
9. Isolating and treating suspected cases of COVID-19;
10. Ensuring cleanliness of facilities and transport vehicles;
11. Practicing social distancing while providing programming; and
12. Collaborating with the National Guard for additional supports.

The state responses below are not meant to be an exhaustive list for each state, but are examples of how different states are implementing these practices.

- 1. Developing a Pandemic Plan or Protocol:** Many Departments of Correction already had operational plans in place to respond to pandemic flu, all-hazards and disasters. In the following cases, DOCs have modified those plans to incorporate Center for Disease Control (CDC) guidance whenever possible.
 - a. Revising existing operational plans to include COVID-19. (AK) ⁱ
 - b. Creating a minimum staffing plan and schedule including the operation of basic services including security, meals, visitation, medical, sanitation, transportation, religious services, and case management/classification. (CT) ⁱⁱ
 - c. Cross-training staff to prepare for potential staffing shortages. (IN) ⁱⁱⁱ
 - d. Facilitating staff hiring through telephone or video conference. (SC) ^{iv}
 - e. Coordinating with temp agencies to hire additional nurses as needed. (VA) ^v
 - f. Developing PPE protocols for patients in isolation or quarantine and staff interacting with patients. (WA) ^{vi}
 - g. Ensuring that facilities have a reasonable stockpile of N95 respirators. (Sedgwick County, KS) ^{vii}

- 2. Educating Staff, Inmates, and the Public:**
 - a. Ensuring that all individuals in facilities know the symptoms of COVID-19 and how to respond if they develop symptoms. This includes posting signage throughout facilities to

educate people on symptoms, hygiene instructions, and the importance of social distancing. (IN)^{viii}

- b. Providing staff with ongoing training from medical staff during roll call/shift change and connecting them to virtual wellness resources. (Washington, DC)^{ix}
- c. Creating educational materials for individuals in custody including frequently asked questions and answers about COVID–19. (AK, LA)^{x xi}
- d. Hosting town hall meetings to educate individuals about sanitation guidelines and COVID–19 prevention/mitigation efforts. (NV)^{xii}
- e. Posting answers to frequently asked questions about DOC responses to COVID–19 to inform the public about emergency preparedness (i.e., posting information on DOC websites, issuing written statements). (Washington, DC)^{xiii}
- f. Providing information on safety precautions to families of incarcerated individuals on DOC websites. (FL)^{xiv}
- g. Providing guidance on attorney-client communications when contact visits are suspended. (NH)^{xv}
- h. Modifying release procedures and property pick-up. (UT)^{xvi}
- i. Establishing a COVID–19 response hotline for the general public accessible through the DOC website. (WI)^{xvii}

3. Restricting Movement

- a. Suspending transfers of inmates between complexes/facilities. (AZ, AK, CA)^{xviii, xix, xx}
- b. Reducing pill line practices by allowing inmates to temporarily keep their medications with them, including over-the-counter, non-prescription medications, and selected mental health medications. (VA)^{xxi}
- c. Providing inmates meals in cells using disposable utensils and plates, and ensuring that individuals who are delivering meals to housing areas are provided with masks. (Sedgwick County, KS)^{xxii}
- d. Restricting recreation time to a single housing unit per recreation space. (CA)^{xxiii}
- e. Employing social distancing during staff escorts of individuals in custody. (CA)^{xxiv}
- f. Facilitating delivery of canteen items to cells to reduce movement within facilities. (CA)^{xxv}
- g. Increasing commissary caps to decrease frequency of canteen visits. (PA)^{xxvi}
- h. Suspending non-urgent dental care. (CA)^{xxvii}
- i. Suspending work crews for community-based projects. (MN)^{xxviii}
- j. Conducting Board of Parole hearings through video conference. (ID)^{xxix xxx}
- k. Prohibiting friends and family members from entering facilities while picking up individuals who are being released. (MA)^{xxx}
- l. Suspending visitation. (CA, but almost all states have implemented this policy)^{xxxii}
- m. Suspending work-related travel for staff to reduce exposure to COVID–19. (MA)^{xxxiii}

4. **Reducing the cost of communication for incarcerated people:** Since many facilities have suspended in-person visitation, some facilities have waived fees for phone calls and video communication.

- a. Waiving fees for phone calls and video chats in jails and prisons. (Shelby County, TN) ^{xxxiv}
- b. Allowing 5 free video calls per week per inmate. (PA) ^{xxxv}
- c. Providing one free video call, two free 15-minute phone calls per week, and half-priced video calls for incarcerated people. (FL) ^{xxxvi}
- d. Providing people in prison 10 free 15-minute phone calls per week. (UT) ^{xxxvii}
- e. Offering a limited number of free calls per week to inmates. (Prisons in CT, DE, FL, VT and jails in Middlesex County, MA; Harris County, TX; and Montgomery County, OH) ^{xxxviii}
- f. Providing 3 free stamps and envelopes per week to allow individuals to contact friends and family. (NY, PA) ^{xxxix}

5. Eliminating medical co-pays for incarcerated people:

- a. Several states have suspended all co-pays, including AL, AR, CT, MD, MA, MN, ID, LA, RI, TN, and WV. ^{xi}
- b. Other states have suspended all co-pays for respiratory, flu-related, or COVID-19 symptoms, including AK, AZ, CO, FL, GA, IN, IA, KS, KY, ME, MI, MS, NH, NJ, NC, ND, NV, OH, OK, PA, SC, SD, TX, UT, WA, and WI. ^{xii}

6. Providing Services and Supplies at No Cost

- a. Providing free hand soap to individuals upon request. (AZ) ^{xlii}
- b. Tracking complaints regarding sanitation issues, including availability of soap and working sinks to address concerns. (NYC) ^{xliii}
- c. Installing hand sanitizing stations. (MS) ^{xliv}
- d. Providing access to tissues. (IN) ^{xlv}
- e. Providing masks for all inmate movement outside isolation cells. (AK) ^{xlvi}
- f. Correctional industries is making reusable cloth barrier masks that are distributed to all institutions for both staff and inmate use, and increasing laundry services to accommodate proper washing and drying of barrier masks. (CA) ^{xlvii}
- g. Requiring the use of masks for all movement outside of cells. (NE) ^{xlviii}
- h. Providing materials for individuals to clean their cells daily. (PA) ^{xlix}
- i. Soliciting donations for materials to produce masks. (ID) ⁱ
- j. Producing and allowing the use of hand sanitizer. (CA, LA) ^{li lii}
- k. Providing free cable TV in cells for individuals who have purchased a TV from the commissary. (PA) ^{liii}

7. Screening of Incarcerated People

- a. Screening all incarcerated persons arriving or departing from facilities according to CDC guidelines, including: a temperature reading, inquiring about recent travel, and inquiring about any recent contact with people who may have experienced symptoms consistent with COVID-19. (Bureau of Prisons, as well as several states) ^{liv}
- b. Screening all individuals prior to transferring from one facility to another. Screening will include: questions related to symptoms and recent travel, as well as a temperature check. If individuals have a temperature greater than 100.4, they are not transferred and are taken to medical for further screening. (AK) ^{lv}

- c. Screening all individuals entering a facility, including conducting a temperature check and questionnaire on recent travel and contact with people who have tested positive for COVID–19. In addition, all new inmates are held in intake for 15 days to monitor for symptoms of COVID–19. (NJ) ^{lvi}
- d. Mass testing of all incarcerated people at two facilities, even those who are not displaying symptoms. (OH) ^{lvii}

8. Screening of Staff and Vendors

- a. Screening all staff and vendors arriving to the facility according to CDC guidelines, including: a temperature reading, inquiring about recent travel, and inquiring about any recent contact with people who may have experienced symptoms consistent with COVID–19. (Bureau of Prisons, LA) ^{lviii lix}
- b. Requiring that any staff who report to work and have a temperature greater than 100.4 do not enter the institution that day. (AL) ^{lx}
- c. Mass testing of all staff at two facilities, even those who are not displaying symptoms. (OH) ^{lxi}
- d. Providing masks and hand sanitizer to vendors who are entering facilities to deliver critical supplies, and requiring vendors to wash their hands prior to entering and exiting facilities. (Sedgwick County, KS) ^{lxii}
- e. Providing National Institute of Occupational Safety and Health-approved N95 respirators to staff who are entering rooms of individuals who have tested positive for COVID–19. (Sedgwick County, KS)

9. Isolating and Treating Suspected Cases of COVID–19

- a. Isolating individuals who develop symptoms in their cells with the capacity for negative air pressure, when possible, or in units designated for housing people who have tested positive. (AK, LA) ^{lxiii lxiv}
- b. Minimizing movement of COVID-19 suspected cases outside the medical isolation space. (AK) ^{lxv}
- c. Avoiding the housing of suspected COVID-19 cases with confirmed cases if single-celling is not possible. (AK) ^{lxvi}
- d. Keeping individuals who had COVID–19 symptoms in isolation, and creating a step-down area (per CDC guidance) for individuals to stay for 7 days until being returned to general population. (MN) ^{lxvii}

10. Ensuring Cleanliness of Facilities and Transport Vehicles

- a. Creating a vehicle sanitation plan and explaining cleaning procedures to staff. (PA) ^{lxviii}
- b. Sanitizing frequently-touched surfaces more often. (LA) ^{lxix}
- c. Outlining sanitation requirements in DOC pandemic response plans. (IN, WA) ^{lxx lxxi}
- d. Designating a point person at each facility to ensure adherence to a sanitizing schedule and the availability of hygiene and cleaning supplies. (MO) ^{lxxii}

11. Practicing Social Distancing while Providing Programming

- a. Allowing individuals to continue to participate in recreational activities by staggering recreation times and restricting movement to one unit at a time. (MS, CT) ^{lxxiii lxxiv}
- b. Reducing group size for continued programming. (IN) ^{lxxv}
- c. Continuing to allow out-of-cell time for video visits, phone calls, and access to the law library, despite movement restrictions. (PA) ^{lxxvi}
- d. Providing in-cell programming or distance learning. Possible methods of in-cell programming can include electronic devices such as tablets or mp3 players to allow individuals to listen to self-help programming, engage in mindfulness activities and listen to audio books. Individuals can also complete worksheets and self-guided treatment activities. (AZ, CA, MN) ^{lxxvii lxxviii lxxix lxxx}
- e. Allowing individuals to request books and have them delivered to their cell from the library. (PA) ^{lxxx}
- f. Using technology to provide in-cell religious programming for holidays and appropriate foods for Ramadan and Passover, or allowing chaplains to conduct individual religious counseling as appropriate while maintaining social distancing. (CA) ^{lxxxii}

12. Collaborating with the National Guard

- a. Working with the National Guard to provide health care operations due to staffing shortages at correctional facilities. (OH, KS) ^{lxxxiii lxxxiv lxxxv}
- b. Establishing and staffing medical screening and COVID–19 testing sites and at correctional facilities to serve inmates who need care but not hospitalization. (IL) ^{lxxxvi lxxxvii}
- c. Suspending inmate staffing of warehouse operations and using the National Guard to fulfill a backlog of commissary orders. (IN) ^{lxxxviii}
- d. Incorporating the National Guard into emergency preparedness staffing plans. (AL) ^{lxxxix}

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- i [https://www.in.gov/idoc/files/Management%20of%20\(COVID-19\)%20in%20Correctional%20Facilities.pdf](https://www.in.gov/idoc/files/Management%20of%20(COVID-19)%20in%20Correctional%20Facilities.pdf)
- ii <https://portal.ct.gov/-/media/DOC/Pdf/Coronavirus-3-20/Covid-19-Operational-Response-Plan.pdf?la=en>
- iii https://www.in.gov/idoc/files/ED_20-20_Pandemic_Response.pdf
- iv http://www.doc.sc.gov/scdc_covid-19_action_plan_031620.pdf
- v <https://vadoc.virginia.gov/news-press-releases/2020/covid-19-updates/>
- vi <https://www.doc.wa.gov/news/2020/docs/2020-0401-all-staff-updated-employee-ppe-protocols-for-patients-on-isolation-or-quarantine.pdf>
- vii http://www.jmijustice.org/wp-content/uploads/2020/03/SedgwickCounty-Sheriff_2020.pdf
- viii [https://www.in.gov/idoc/files/Management%20of%20\(COVID-19\)%20in%20Correctional%20Facilities.pdf](https://www.in.gov/idoc/files/Management%20of%20(COVID-19)%20in%20Correctional%20Facilities.pdf)
- ix <https://doc.dc.gov/page/coronavirus-prevention>
- x <https://doc.alaska.gov/covid-19/docs/DOC%20COVID19%20Preparedness%20&%20Prevention.pdf?03312020>
- xi <https://www.wdsu.com/article/louisiana-plans-to-house-inmates-with-coronavirus-at-angola-and-another-prison/31960114>
- xii http://doc.nv.gov/About/Press_Release/covid19_updates/
- xiii <https://doc.dc.gov/page/coronavirus-prevention>
- xiv <http://www.dc.state.fl.us/comm/press/main/03-28-sec.html>
- xv <https://www.nh.gov/nhdcc/news/documents/2020-23-03-attorney-client-communications.pdf>
- xvi <https://corrections.utah.gov/index.php/family-friends/release-day-information>
- xvii [https://doc.wi.gov/Pages/COVID19\(Coronavirus\)/Announcements/COVID19Announcements.aspx](https://doc.wi.gov/Pages/COVID19(Coronavirus)/Announcements/COVID19Announcements.aspx)
- xviii <https://www.usnews.com/news/best-states/arizona/articles/2020-03-18/arizona-prisons-take-more-steps-to-guard-against-covid-19>
- xix http://www.jmijustice.org/wp-content/uploads/2020/03/COVID-19-Response-Checklist-Alaska-DOC_2020.pdf
- xx <https://www.cdcr.ca.gov/covid19/>
- xxi <https://vadoc.virginia.gov/news-press-releases/2020/covid-19-updates/>
- xxii http://www.jmijustice.org/wp-content/uploads/2020/03/SedgwickCounty-Sheriff_2020.pdf
- xxiii <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#ImplementSocialDistancing>
- xxiv <https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/04/COVID19-Modified-Program.pdf?label=Mandatory%2014-day%20Modified%20Program&from=https://www.cdcr.ca.gov/covid19/memos-guidelines-messaging/&label=mandatory%2014-day%20modified%20program&from=https://www.cdcr.ca.gov/covid19/>
- xxv <https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/04/COVID19-Modified-Program.pdf?label=Mandatory%2014-day%20Modified%20Program&from=https://www.cdcr.ca.gov/covid19/memos-guidelines-messaging/&label=mandatory%2014-day%20modified%20program&from=https://www.cdcr.ca.gov/covid19/>
- xxvi <https://www.cor.pa.gov/Pages/COVID-19.aspx>
- xxvii <https://www.cdcr.ca.gov/covid19/>
- xxviii <https://mn.gov/doc/about/covid-19-updates/updates-for-inmate-families/>
- xxix <https://www.cdcr.ca.gov/covid19/>
- xxx https://www.idoc.idaho.gov/content/story/parole_commission_statement_on_upcoming_hearings
- xxxi <https://www.mass.gov/doc/covid-19-qa/download>
- xxxii <https://www.cdcr.ca.gov/covid19/>
- xxxiii <https://www.mass.gov/doc/covid-19-qa/download>
- xxxiv <https://www.wmcactionnews5.com/2020/03/13/shelby-county-cancels-non-essential-government-meetings-jail-visitations/>
- xxxv <https://www.wesa.fm/post/person-visits-eliminated-pa-prisons-get-more-phone-video-privileges#stream/0>
- xxxvi <http://www.dc.state.fl.us/comm/press/main/03-12-Covid-Support.html>
- xxxvii <https://corrections.utah.gov/index.php/home/alerts-2/1237-udc-coronavirus-updates>
- xxxviii <https://www.prisonpolicy.org/virus/virusresponse.html#resources>

xxxix <https://www1.nyc.gov/site/doc/media/coronavirus-news.page>

xl <https://www.prisonpolicy.org/virus/virusresponse.html#resources>

xli <https://www.prisonpolicy.org/virus/virusresponse.html#resources>

xlii https://corrections.az.gov/sites/default/files/notifications/adcurr_covid-19_management_strategy_update_3-18-2020.pdf

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State Corrections Systems Release Responses to COVID-19

Updated April 22, 2020

Corrections systems across the country are using various strategies to keep inmates and staff safe during the COVID-19 pandemic. More than half of the states in the US have made efforts to reduce their prison populations through various release mechanisms.

This document provides an overview of release mechanisms being used, the criteria for release consideration, and the number of individuals that states have released or may release. The nature of the public health emergency means that practices are changing regularly; the information below is current as of April 22, 2020. The information contained in the table comes from state Department of Corrections' websites and media articles. The light blue shading designates those states that do not appear to currently have plans for early releases.

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
Alabama	No current plans for early releases <i>Note: On March 20, Alabama Department of Corrections put a 30-day moratorium in place on new commitments, court returns, and court-ordered custodial sanctions for supervision violations to slow prison admissions</i>		
Alaska	No current plans for early releases <i>Note: The Alaska Court System issued two court orders in March that intended to impact correctional populations. The court orders are aimed at reducing jail crowding specifically. This is relevant because Alaska DOC holds both prison and jail populations. One order directs defendants charged with a misdemeanor (other than DV or stalking) to be released on their own recognizance. The second order states that the coronavirus pandemic can be considered relevant in a defendant's request for a bail hearing.</i>		
Arizona	No current plans for early releases		
Arkansas	Governor Hutchinson announced plans for a compassionate release program for certain inmates	Compassionate release eligibility: <ul style="list-style-type: none"> • Nonviolent, non-sex offenders • Within 6 months of release 	1,700 eligible for Parole Board review
California	In March, California Department of Corrections and Rehabilitation	<ul style="list-style-type: none"> • Nonviolent offenders • Within 60 days of release 	3,500 eligible for expedited

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
	<p>announced that it would expedite the transition to parole for certain individuals</p> <p><i>Note: CDCR has temporarily suspended intakes from jails</i></p>	<ul style="list-style-type: none"> • Priority to individuals with less than 30 days left on sentence 	<p>transition to parole</p>
<p>Colorado</p>	<p>Executive Order from Governor Polis to grant early release to some state inmates</p> <p>The Executive Order granted Colorado DOC flexibly to alter their policies</p> <p>In response, Colorado DOC changed their criteria for special needs parole, intensive parole supervision, and allowing inmates the opportunity to earn up to an additional 180 days of earned time</p> <p><i>Note: The executive order also allows the Colorado DOC director to refuse to admit newly-sentenced inmates</i></p> <p><i>Colorado DOC has also been working with law enforcement to temporarily suspend arrests for low level technical parole violations</i></p>	<p>Eligibility for each of the three options:</p> <p>Special needs parole:</p> <ul style="list-style-type: none"> • At a higher risk of mortality from COVID-19 due to underlying medical conditions • Represent a low public safety risk • Do not have a victim(s) • Can be cared for in the community <p>Intensive Supervision Parole:</p> <ul style="list-style-type: none"> • Those who have not yet been paroled may be placed directly on ISPI (intensive supervision parole) and are subject to the Code of Penal Discipline (COPD) • Within 180 days of parole eligibility date • No Class I COPD convictions within previous 18 months • No Class II COPD convictions in previous 12 months • Participating in available recommended programs • No documented Security Threat Group activity for 2 years • Has not been on any Management Control Unit status for 2 years • Sign-off from Victim Services • No sex offenders • No homeless releases • No pending charges or warrants <p>Increased earned time:</p> <ul style="list-style-type: none"> • Serving sentence for class 4, 5, and 6 felonies • Only class 3 and 4 felony if serving sentence for drug offense • Release date prior to August, 2021 • No active detainees • No class I COPD within last 12 months • Has not been on any Management Control Unit status for 2 years • Signoff from Victim Services 	<p>52 people released early to date</p>

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
		<ul style="list-style-type: none"> No sex offenders No program refusal Must have 1 year incarceration in CDOC No community or parole regression within past 12 months 	
Connecticut	DOC has released inmates since COVID-19 struck ; many were people eligible for parole and released early	DOC is working with the Board of Pardons and Parole to review release eligible offenders : <ul style="list-style-type: none"> Must have a solid home plan Evaluation of risk to public safety using a risk assessment Prioritizing people who are considered high risk for COVID-19 	In total, 700 released since COVID-19 struck, the most releases in one month's time in state history (<i>it is unknown exactly how many of the 700 were released early</i>)
Delaware	No current plans for early releases		
Florida	No current plans for early releases		
Georgia	The Georgia Board of Pardons and Paroles is reviewing inmates for early release <i>Note: Most will serve the remainder of their sentence on probation</i>	To be considered for early release, inmates must be: <ul style="list-style-type: none"> Serving time for nonviolent offenses Within 180 days of completing their prison sentence, OR within 180 days of their tentative parole date 	Up to 200 inmates eligible
Hawaii	No current plans for early releases		
Idaho	No current plans for early releases		
Illinois	Executive Order by the Governor on Mar 23, 2020 relaxing restrictions on early prison release In early April, the Governor signed a second Executive Order to give DOC permission to allow "medically vulnerable" inmates out of prison temporarily	The DOC has said it will not discuss the criteria used to determine releases, but has said it is reviewing cases for violent histories.	~ 500 people released early as of early April 6 female inmates released who recently gave birth
Indiana	No current plans for early releases		
Iowa	In late March, DOC announced plans to expedite release of inmates who were already approved for parole Then, in late April, Iowa DOC announced the department will release another cohort	Only individuals eligible for release to parole <i>Note: All will still be reviewed by the Parole Board (Parole Board has said it has doubled its staff to meet the surge of releases, but has not changed its risk evaluation process)</i>	700+ in first cohort 482 in second cohort

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
Kansas	As of April 16, DOC beginning to put together a list of people who may be eligible for early release	No details on eligibility yet, other than inmates with a “viable release plan” (i.e. with a plan for where to live and/or work) are more likely to be considered	None released yet, total eligible unknown
Kentucky	<p>Governor Beshear issued an Executive Order on April 2 commuting sentences of 182 felons considered high risk for COVID-19</p> <p>In addition, the DOC identified 743 inmates who are near the end of their sentence who are eligible for early release</p>	<p>Sentences commuted by Governor:</p> <ul style="list-style-type: none"> • Considered susceptible to COVID-19 due to respiratory, heart, and/or other health problems • Pass a health screen for COVID-19 • Have a home to go to where they can be quarantined for 14 days • Serving a sentence for a Class C and D felony • Not convicted of violent or sex-related crimes <p>Released early by DOC:</p> <ul style="list-style-type: none"> • Within 6 months of completing sentence • Pass a health screen for COVID-19 • Have a home to go to where they can be quarantined for 14 days • Serving a sentence for a Class C or D felony • Not convicted of violent or sex related crimes 	749 released as of April 24, 2020
Louisiana	<p>In April, Louisiana DOC created a review panel to consider two groups of inmates for temporary furloughs</p> <p>Decisions made by a panel of six representatives:</p> <ul style="list-style-type: none"> • Secretary of DOC, or designee • Director of Probation & Parole, or designee • Executive Director of Pardon & Parole Board, or designee • Victim’s Advocate, as appointed by the Governor • Executive Director of LA Sheriff’s Association, or designee • Executive Director of the LA District Attorney’s Association, or designee <p><i>Note: Louisiana state inmates are housed in local jails and state-run</i></p>	<p>Temporary medical release for those in state prisons:</p> <ul style="list-style-type: none"> • Underlying health condition • Convicted of nonviolent offenses • Not convicted of a sex offense • Release date within 6 months • Proof of housing ready to receive them upon release <p>Temporary release for those in local jails:</p> <ul style="list-style-type: none"> • Already served at least 6 months of sentence • Convicted of nonviolent offenses • Not convicted of a sex offense • Release date within six months • Proof of housing ready to receive them upon release 	1,200 eligible for review - 100 from state prisons -1,100 from local jails

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
	<i>prisons</i>		
Maine	In March, Maine DOC reviewed inmates for possible placement on Supervised Community Confinement (SCCP)	Eligible for placement onto SCCP: <ul style="list-style-type: none"> Classified as community custody Has release date within 2 years or less Discipline-free for 90 days or more; Served a designated period of time within a State managed facility Has approved transition plan 	29 released onto SCCP as of March 27 Anticipate 12 approvals for release to SCCP in April
Maryland	On April 19th, Governor Hogan released an Executive Order to grant early release to certain inmates, and directed the Maryland Parole Commission to accelerate consideration of parole for certain inmates	Eligible for early release: <ul style="list-style-type: none"> Already eligible to be released within the next 4 months At high risk of coronavirus complications Not convicted of a sex offense Showing no symptoms of COVID-19 Eligible for expedited parole: <ul style="list-style-type: none"> Convicted of nonviolent crimes Over 60 Good record while incarcerated Has approved re-entry plan Not convicted of a sex offense Showing no symptoms of COVID-19 	~800 total eligible: -700 under early release -100 under expedited parole
Massachusetts	The Massachusetts Supreme Judicial Court ruled that some prisoners can be released from state jails and prisons; ruling only affects people held pretrial or on technical violations, not people who have been sentenced <i>Note: Massachusetts Department of Corrections facilities hold both those populations</i>	Eligible for review: <ul style="list-style-type: none"> People held on technical violations of probation and parole or People who are detained pre-trial 	367 released from jails and prisons: -13 released -58 paroled -23 medically paroled
Michigan	Michigan DOC looking to expedite the parole process	Prioritizing cases where individual: <ul style="list-style-type: none"> Is serving time for nonviolent offense; Is older than 60; Has health issues 	Number paroled increased by approximately 1,000 in March compared to prior months
Minnesota	Minnesota Department of Corrections Commissioner considering early release of some state prisoners	Eligible for consideration: <ul style="list-style-type: none"> Within 90 days of release Served more than 50% of sentence Serving time for non-violent offense Assessed as a low risk to public safety Does not have ordered in-custody treatment 	Estimated 50 people per month (with the option of the state legislature voting to

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
		<ul style="list-style-type: none"> Does not have out-of-state warrants Does not have ordered sex offender programming Does not have history of violent offenses 	extend over 6 months)
Mississippi	No current plans for early releases		
Missouri	No current plans for early releases		
Montana	The Board of Pardons and Parole will consider early release for certain inmates	<ul style="list-style-type: none"> Meet at least one of the following: <ul style="list-style-type: none"> 65 or older Have medical condition that puts them at high risk Pregnant Nearing their release date Does not pose a public safety risk Able to receive adequate medical care and meet supervision requirements in the community 	Unknown
Nebraska	No current plans for early releases		
Nevada	No current plans for early releases		
New Hampshire	The New Hampshire Department of Corrections is considering releasing some inmates through administrative home confinement	<p>Under consideration:</p> <ul style="list-style-type: none"> Medically frail and/or close to release date Not convicted of murder, manslaughter, felony sexual assault, first- or second-degree assault, robbery, escape, or aggravated driving while intoxicated Never committed assault while incarcerated Never have had a previous at-home confinement status revoked 	Unknown
New Jersey	Executive Order by Governor on Apr 10, 2020 to release, at least temporarily, people convicted of nonviolent offenses	<p>Eligible for consideration:</p> <ul style="list-style-type: none"> Convicted of nonviolent offenses Over 60 Have health risks Never convicted of murder, sexual assault, or other serious crimes Meets one of the following: <ul style="list-style-type: none"> Finishing sentence within 3 months Recently considered for parole 	Unknown
New Mexico	An Executive Order by Governor Grisham on Apr 6, 2020 directed New Mexico Corrections Department to compile a list of incarcerated people who are eligible for early release; all deemed eligible will receive a gubernatorial commutation for the remainder of their prison	<p>Eligibility criteria set forth by Governor:</p> <ul style="list-style-type: none"> Person's release date is no more than 30 days away Necessary parole plan is in place Person is not a sex offender Person has not been convicted of felony DWI Person is not serving for domestic abuse 	<p>14 released a week after the order</p> <p>Unclear how many more have been identified for release</p>

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
	sentence if meet criteria	<ul style="list-style-type: none"> Person is not serving for assault on a peace officer Person is not serving for firearms enhancement 	
New York	On April 19, Governor Cuomo had not yet made the decision to grant early release to any state inmates, but was considering it	Eligibility for consideration: <ul style="list-style-type: none"> Over 50 Within 90 days of planned release date 	171 identified as meeting the Governor's criteria
North Carolina	On April 13, North Carolina Department of Public Safety began reviewing offenders for possible transition to the community to complete their sentence on supervision (state law allows Department of Public safety (DPS) to allow certain people to serve their sentence on supervision rather than in prison) Separately, DPS has been awarding time credits "when appropriate" to allow offenders to earn their time off faster	Eligibility for review for early release: <ul style="list-style-type: none"> Not convicted of violent crime against a person Must fall in to one of the following categories: <ul style="list-style-type: none"> Pregnant 65 and older with an underlying health condition Female 50 or over with health conditions and a release date in 2020 65 and older with a release date in 2020 Already on home leave with a release date in 2020 On work release with a release date in 2020 	~ 500 people under consideration
North Dakota	The North Dakota parole board granted early parole to select inmates with health risks	Considered by Parole Board: <ul style="list-style-type: none"> Individuals with health risks Served their minimum sentence Determined to be low risk of reoffending 	56 granted early parole
Ohio	Ohio Governor DeWine has been approving early release of nonviolent inmates Separately, he has recommended the release of 26 inmates who are 60 or older with underlying medical conditions	Governor's eligibility criteria for early release: <ul style="list-style-type: none"> Scheduled for release within 90 days Tested negative for COVID-19 Housed in minimum-security prisons Not convicted of a violent crime, sex crime, or other serious felony Not incarcerated for a second time Eligibility criteria for compassionate release: <ul style="list-style-type: none"> Age 60 or older Underlying medical condition 	~ 500 under consideration, 300 released to date
Oklahoma	Governor Stitt issued an Executive Order on April 10 commuting prison sentences	Cases were considered individually, but were all for non-violent offenses (349 offenses from the drug possession docket, and 22 from the property docket)	~ 100 released <i>Note: Governor commuted 452 sentences, but most people</i>

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
			<i>had other charges that have not been commuted by the Pardon and Parole Board, and must still serve time for those charges</i>
Oregon	Governor Brown has said she will not authorize mass releases but has asked Oregon DOC to create a list of individuals who fall into 7 categories she may consider for early release	Categories of possible releases requested by the Governor: <ul style="list-style-type: none"> • Inmates most vulnerable to COVID-19; • Other vulnerable inmates • 60 years or older; • Within 6 months of release; and • Within 12 months of release. 	DOC identified 3,244 who fell into the Governor's categories, however, none released to date
Pennsylvania	Executive Order by Governor on Apr 10, 2020 for temporary release on parole: once the state's coronavirus emergency order ends, they must return to prison to complete their sentence Also have allowed some prisoners to complete their pre-release programming in the community	Expedited release to parole: <ul style="list-style-type: none"> • Nonviolent offenders • Within 9 months of parole eligibility • Meet one of the following criteria: <ul style="list-style-type: none"> ○ 65 or older or ○ Pregnant or ○ Has chronic health condition that makes person more vulnerable to coronavirus complications • Not incarcerated for gun offenses, drug trafficking, or sex crimes • Not denied parole • Not convicted of a separate offense while incarcerated 	~ 100 inmates recommended for expedited hearings 88 have been allowed to complete pre-release programming in the community.
Rhode Island	Corrections officials reached an agreement with state prosecutors and public defenders on early release; waiting for approval of the court	<ul style="list-style-type: none"> • Stable housing to which to return • Consent to 14-day quarantined upon release • 90 days or less remaining in prison term 	76 identified for possible release
South Carolina	No current plans for early releases		
South Dakota	No current plans for early releases		
Tennessee	No current plans for early releases		
Texas	No current plans for early releases		
Utah	The Utah Department of Corrections has referred 80 inmates to the Board of Pardons and Parole for consideration of early release	<ul style="list-style-type: none"> • Within 90 days of completing sentence • Has approved address 	80 referrals have been made to date

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
Vermont	Vermont DOC considering possible furloughs and releases to probation	Eligibility criteria not published	100 people released in late March
Virginia	On April 10, Governor Northam proposed an amendment to the state budget that would give Virginia DOC authority to release certain inmates	Eligibility criteria, as detailed by the DOC : <ul style="list-style-type: none"> • Individuals with less than 1 year remaining on sentence • Have a viable reentry plan • An assessed medium or low risk of recidivism • Not convicted of a Class 1 felony or a sexually violent offense • Demonstration of good behavior while incarcerated, as shown through accrual of good time • No active detainees 	~ 2,000 eligible
Washington	Governor Inslee released an Executive Order on April 15, issuing an emergency commutation to allow for the release of incarcerated individuals In addition, Washington Department of Corrections Secretary Sinclair began : 1) A Rapid Reentry program, allowing incarcerated individual to serve an expanded portion of their sentence in the community on electronic monitoring, and 2) Emergency furloughs to incarcerated individuals who are in work release settings	Emergency commutations: <ul style="list-style-type: none"> • Non-violent offenses or drug or alcohol offenses • Projected release date is prior to or on June 29, 2020 Rapid reentry to community confinement: <ul style="list-style-type: none"> • Meet the Center for Disease Control guidelines of those at higher risk of contracting COVID-19 • Near end of sentence • Not serving time for violent or sex offenses • Has an established address and Washington state identification; Emergency furloughs: <ul style="list-style-type: none"> • Incarcerated individuals in work release settings 	421 through emergency commutation (405 released already, 17 pending) 594 through rapid reentry (17 released already, 577 pending) 41 through emergency furloughs (all released already)
West Virginia	The West Virginia Division of Corrections and Rehabilitation released some in prison as sanctions for violations of parole, and extended weekend furloughs to two weeks for some others	Early release: <ul style="list-style-type: none"> • Parolees serving short terms for parole-related sanctions Furlough extension: <ul style="list-style-type: none"> • Already eligible for weekend furloughs because of good behavior. 	70 released early from parole sanction 70 received furlough extension
Wisconsin	Wisconsin DOC released certain violators of community supervision conditions and those confined under the “Certain Earned Release” policy	Supervision violator holds: <ul style="list-style-type: none"> • In custody for a nonviolent misdemeanor violation Certain Earned Release:	1,148 released from supervision holds

State	Release Mechanism	Who is Eligible/Impacted?	# Considered, Eligible, or Released
		<ul style="list-style-type: none"> • Nonviolent offenses • Within 12 months of release from the confinement portion of a bifurcated sentence imposed between 2009 and 2011 	28 released under Certain Earned Release
Wyoming	No current plans for early releases		

THE SAFER PLAN: PREVENTING THE SPREAD OF COMMUNICABLE DISEASE IN THE CRIMINAL JUSTICE SYSTEM



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Summary

CDC recommendations regarding COVID-19 are changing as our understanding of the spread, treatment, and management of the virus evolves. Many of the recommendations below are based on current CDC recommendations, but people responsible for protecting incarcerated and supervised populations should routinely monitor CDC updates and information from their local health departments — including county, city, and tribal health departments.

The United States incarcerates over 2.2 million people in prisons and jails, with many facilities operating well over capacity. Incarcerated persons have higher rates of underlying health issues than members of the general public, including higher rates of respiratory disease, heart disease, diabetes, obesity, HIV/AIDS, substance abuse, and other conditions that suppress immune response. The close conditions and lack of access to hygiene products in prisons and jails make these institutions especially susceptible to viral pandemics. Incarcerated persons

often avoid seeking medical attention because of medical co-pays and lengthy wait times, which create a lag in identifying and treating conditions, leading to an increase in the severity and spread of illness. The spread of communicable viral disease in the United States constitutes a serious, heightened threat to the safety of incarcerated persons and correctional staff. The failure to contain and slow the spread of communicable viral disease in our jails and prisons creates a serious threat to the general public.

The United States has over 4 million people under some form of correctional control through community supervision (parole or probation). Communicable viral disease can also be spread by unnecessarily aggregating persons under community supervision in administrative offices, and by requiring them to adhere to conditions of supervision that require travel and interfere with recommended social distancing and quarantine protocols.

With that in mind, we've created the SAFER plan.

The SAFER plan

The following experts' input, guidance, and publications were critical in developing the SAFER Plan:

- Craig Haney, PhD, JD; Conditions of Confinement and Psychology Expert and Professor at University of California, Santa Cruz
- Vincent Schiraldi, MSW; Senior Research Scientist at Columbia University's Justice Lab and former Commissioner of New York City Probation.
- Mark Stern, MD, MPH; Correctional Health Care Specialist at University of Washington
- Alysse Wurcel, MD, MS; Geographic Medicine and Infectious Diseases Expert at Tufts Medical Center

The following groups also helped collaborate on the plan:

- Experts who have been directly impacted by the criminal justice system, including formerly incarcerated people and family members of those who have been impacted.
- Correctional officers and administrators
- Probation and parole officers
- American Conservative Union
- Americans for Prosperity
- Cut50
- Due Process Institute
- Faith and Freedom Coalition
- FAMM

- FreedomWorks
- James Madison Institute
- Justice Action Network
- National Alliance on Mental Illness
- National Urban League
- R Street Institute
- Right on Crime

Here is the full list of recommendations contained within the plan.

Legal Visitation / Alternatives to Physical Visitation

States and counties within the United States (and some countries, such as Italy) have suspended visitation into jails and prisons to slow the spread of COVID-19. While the importance of protecting communities from COVID-19 — and in this case, people behind bars and under supervision — is paramount, it is essential that the measures taken are the least harmful to the people they seek to protect. While suspension of physical visitation may be necessary to contain or slow the spread of the virus, measures such as suspension of all visitation and programming (discussed below), have significant negative effects on people under correctional control and their families. For example, psychological distress and increased incidences of violence are documented effects of such measures. Further, loss of access to legal rights, education opportunities, faith services, mental/medical health, and substance abuse treatment is also evident when suspension of visitation extends to professionals and volunteers.

Recommendations

In facilities where physical visitation is suspended, retain access to (and increase as needed to make up for the loss of physical visits) non-contact legal visitation.

Implement, as appropriate and available, alternative methods of visitation — such as phone calls, video visitation, and electronic communication — for all types of visits (family, nonlegal professional visits, legal visits where non-contact visits are not accommodated etc).

Phone calls, electronic communication, and video visitation fees must be waived during this time. At the very least, these fees should be reduced, with a certain number per week of phone/video visits and/or electronic communications provided at no cost, to ensure that vital connections to family and communities are not severed.

Medical Copays and Waitlists for Medical Care

Incarcerated persons may be required to pay copays for medical care, disincentivizing them from requesting medical treatment. Further, medical treatment inside of facilities often requires lengthy wait times. During these wait times, people may unintentionally and unknowingly spread the virus to others.

Recommendations

Waive copays for medical visits, medications, and medical supplies for symptoms that may be related to COVID-19. Ensure that people most vulnerable to COVID-19, as defined by criteria determined by current public health recommendations, are seen quickly. Provide surgical masks to people exhibiting symptoms (such

as coughing and sneezing) while they await medical screening and care. Provide N-95 masks (or, if those are not available, any mask with an N, P, or R and a 95 or 100 designation; if none of those are available, provide a surgical mask) to staff working in close proximity to symptomatic patients. Follow current public health recommendations on appropriate precautions for staff and incarcerated persons working in jobs that impact the health of others in the institution, such as food preparation.

Hand Sanitizer Availability and Declassification as Contraband, Soap and Hygiene

One of the only methods proven to slow and prevent the spread of coronavirus is hand sanitizer — specifically, the kind with alcohol in it.

Recommendations

Make available to all incarcerated persons at no cost hand sanitizer approved for slowing and preventing the spread of coronavirus. Declassify as contraband hand sanitizer with alcohol. Allow correctional staff to carry personal size hand sanitizer.

Make available to all incarcerated persons and staff an ample supply of soap, at no cost. Remove barriers to good infection control and increase access to good hygiene protocols. Ensure all incarcerated persons have access to running water and soap and are informed of the need to wash hands thoroughly, even if they have access to gloves.

Cleaning and Disinfecting Shared Spaces

In addition to hand sanitizer, cleaning shared surfaces with approved cleaning solutions has also been recommended to slow or prevent the spread of the virus.

Recommendations

Increase the cleaning schedules of all shared spaces within the institutions and clean with solutions proven to kill the virus. Make available to or provide a schedule for the same cleaning within cells.

Jails and Courtrooms

The spread of communicable diseases is often even higher in jails than prisons. For example, the rate of tuberculosis (TB) is anywhere from 5 to 100 times higher in the incarcerated population than in outside communities, but almost all of the data show that jail rates of TB are even higher than prison rates of TB.

This may have to do with poor screening practices in jail, but it may also have to do with the higher turnover in jail. Consequently, it is essential to take additional steps to prevent unnecessary pretrial incarceration and reduce crowded courtrooms.

Recommendations

Use alternatives to incarceration for pretrial defendants. Unless an individual is adjudicated as a risk to public safety, utilize alternatives, such as home confinement, instead of incarceration.

Allow telephonic and video appearances in courtrooms to slow the spread of the virus.

Request postponement, subject to constitutional requirements and required consent, of all nonessential court dates that cannot be accommodated remotely.

Utilize Alternatives to Incarceration Consistent with Public Safety

Given the close living quarters, challenges with sanitation, and overburdened / undersupplied medical care systems in prisons and jails, all efforts must be made to reduce incarceration that does not implicate a threat to public safety. The necessity of social distancing and precautionary quarantines may result in significant disruptions to legal representation, severing of beneficial family connections, and loss of important programming — all of which can also impact the level of violence and overall safety within the institution — and every effort must be made to mitigate the negative effects of such disruptions for the over 2.2 million people behind bars.

Recommendations

Pretrial (defendants in custody/jail prior to conviction / adjudication):
Identify and release people who have been detained pretrial and whose release

would not constitute a serious threat to public safety. Release those persons to home arrest, electronic monitoring, or other conditions, as appropriate. Reduce the use of pretrial detention to the extent consistent with public safety and existing law.

Jail* (defendants in jail serving their sentence/postconviction): Identify persons currently incarcerated in jails who are within eight weeks of release and immediately release those persons to house arrest, electronic monitoring, or other measures necessary for the balance of the term of incarceration.

Prison* (defendants in prison serving their sentence/postconviction): Identify persons currently incarcerated who are within six months of release from incarceration and immediately release those persons from incarceration, implementing house arrest, electronic monitoring, or other measures as necessary for the balance of the term of incarceration.

Technical Violations* (defendants serving time in jail or prison for a technical violation of supervision / no new crime): Identify persons currently incarcerated due to a technical violation and immediately release those persons from incarceration, implementing house arrest, electronic monitoring, or other measures as necessary for the balance of the term of incarceration for the violation.

Compassionate Release*: Identify incarcerated persons who are elderly, immunocompromised, or meet the requirements for compassionate or elderly release. Expand and expedite the use of compassionate and elderly release and release those persons from incarceration, implementing house arrest, electronic monitoring, or other measures as necessary for the balance of the term of incarceration for the violation.

*Except that, this provision shall not apply to any person whose release is determined to constitute a serious threat to public safety, but such release shall not be unreasonably withheld.

Testing Kits, Protocols, and Identification/Mitigation of Symptoms

Multiple test protocols are necessary to ensure that the virus is contained.

Recommendations

Incarcerated Persons

Provide facilities with adequate testing kits to meet the needs for testing according to testing criteria established by the local health authority. Determine the extent of the crisis. Prioritize testing of vulnerable populations and people with symptoms.

In the event that testing kits are unavailable or scarce, test for symptoms of the virus, according to the most current public health recommendations. As of 3/15/2020, recommendations are to screen for the following: fever of 100 degrees, cough, shortness of breath, recent travel to a high-risk area, and exposure to someone who is symptomatic and under surveillance for COVID-19. If 2 out of 3 are present, prioritize COVID-19 testing and consider quarantine. These criteria should be updated to reflect evolving public health recommendations.

Visitors and Facility Staff

Anyone admitted into the facility must be tested to ensure that they are not bringing the virus into the facility. [See above for legal and family visitation recommendations.]

Staff reporting to work should be screened for symptoms of the virus according to the most current public health recommendations. Staff or visitors who screen positive must not enter the facility. The staff member should be advised to contact his or her health care provider for further advice, and the local health authority should be notified to assist the facility with managing the finding.

To anticipate reductions in staffing, facilities should consider liberalizing restrictions on overtime for current employees as well as considering sources of supplemental staff, such as retirees, and begin appropriate training. At the same time, facilities should consider ways of encouraging sick staff to not report to work, e.g. not penalizing staff who are absent after exhausting leave, or even expanding leave allowances.

Procedures for Suspected / Confirmed COVID-19 Cases

To prevent the spread of confirmed or likely COVID-19 cases, every possible effort must be made to separate out people with the virus from the rest of the incarcerated population. People with active symptoms or in need of treatment for the virus, should be safely transferred out of the facility as early as practicable to ensure they receive the care they need and prevent further spread.

Recommendations

[See above for recommendations related to safely releasing incarcerated persons who are not a threat to the community.]

Create non-punitive quarantines for low-risk incarcerated persons who have likely or confirmed COVID-19. CDC recommends quarantine in negative pressure rooms. If negative pressure rooms are available, quarantine there. If negative pressure rooms are unavailable, consult with local health authorities and hospitals to determine appropriate alternative options.

Ensure that quarantine and isolation is non-punitive to encourage people to notify staff of potential symptoms as early as possible. Quarantine and isolation should have ample access to comfort, entertainment, and activity- related materials permitted in the pre-quarantine custody level. Every reasonable, available measure to mitigate the harmful psychological and physical effects of isolation should be

taken to ensure that the quarantines do not create additional medical and mental health risks.

High-risk incarcerated persons (people whose age, history of illness, and active symptoms, increase the likelihood of necessary medical intervention), should be safely transferred to a medical facility that can accommodate them to ensure that they are appropriately quarantined and cared for.

No one should be incarcerated past their release date, even if quarantine is warranted. Confirmed cases requiring medical care must be coordinated with the appropriate hospital to facilitate the transfer from incarceration to medical supervision in a safe and timely manner. Individuals who are isolated for mild symptoms or quarantined as a precaution should be released with a plan for self-quarantine and both the supervision department and the local health department should be notified to ensure appropriate accommodations are in place.

Earned Time Credit, Programming, and Lockdowns

The need for social distancing, even in overcrowded facilities, will mandate changes to group settings, programming, and movement within the facility. Many of these programs have proven recidivism-reducing effects, as well as positive effects on safety within the institution. Consequently, while reducing programming and group activities may be essential to slowing the spread of the virus, all available alternatives must be utilized, with incentives remaining the same, to prevent the negative effects correlated with their cancellation. Similarly, every effort to mitigate the detrimental effects of movement restrictions and lockdowns must be made to avoid negative medical, mental, and behavioral consequences.

Recommendations

When possible, continue groups and programming that can accommodate the recommended 6-foot distance between participants. If unable to accommodate the required distancing protocols, institutions should

use whatever non-contact alternatives are available. This includes increasing remote classes, groups, and programming conducted by video, phone, or mail. It also includes cell-side visits from instructors, group facilitators, and faith leaders that are cleared to enter the facility and agree to abide by prevention guidelines consistent with current public health recommendations. During this time, earned time credit for participation in programming should still be accrued.

During lockdowns or periods of restricted movement, the facility should implement as many mitigating measures as possible, pursuant to the paramount goal of maintaining safety in the facility. These mitigating measures may include, but are not limited to: increasing entertainment time within the cell by allowing extended access to and use of television and radio; relaxing restrictions around the number of books and papers allowed inside of the cell; instituting cell-front phone calls, and; implementing cell-front programming and faith services.

Reducing Unnecessary Supervision (Parole and Probation)

More than double the number of people who are incarcerated are under some form of correction supervision, and subject to a number of conditions that prevent people under supervision from taking the recommended precautions to prevent and slow the spread of COVID-19. Limiting and reducing the use of unnecessary supervision and supervision conditions is essential to containing and mitigating the spread of the virus.

Recommendations

Identify persons who have successfully completed at least 3 years of supervision and transfer that person to administrative supervision or terminate supervision, as

appropriate. Suspend fines and fees for formal, informal, and administrative supervision.

Technical Violations

In addition to reducing mandatory supervision meetings (to avoid group settings ripe for the spread of the virus), any/all non-essential confinement must be suspended.

Recommendations

Suspend incarceration for technical violations of supervision. Any/all confinement not essential to public safety must be suspended and alternatives must be enacted until the spread of the virus is adequately contained. Utilize alternative sanctions for technical violations. Use alternative sanctions for violations of the law that do not implicate public safety. No penalties shall be assessed for fines and fees not paid during this time.

Conditions of Supervision

Given the risk of spreading the virus in groups and gatherings, every effort must be made to reduce conditions of supervision that require travel and in-person meetings.

Recommendations

Suspend any/all conditions that require mandatory in-person meetings, including but not limited to office check-ins with supervision officers. Utilize phone check-ins or alternative methods instead.

Any in-person contact (such as drug testing) will only be conducted when the risks to both the supervising officer and the supervised person are mitigated; no supervision conditions will require the supervised person to travel to or attend group meetings that may put them at risk.

Discretionary groups and programming, such as alcoholics anonymous (AA) and grief support groups, should accommodate the recommended 6-foot distance between participants. If unable to accommodate the required distancing protocols, discretionary groups should use whatever non-contact alternatives are available (phone, video, or online groups).

[Coronaviruses](#) [Prison](#) [Jail](#) [Mental Health](#) [Justice](#)

[About](#) [Help](#) [Legal](#)

Agenda Item 8:

Electronically Filed
04/16/2020

Heather S. Shuman
CLERK OF THE COURT

1 ORDR

2
3 **EIGHTH JUDICIAL DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 In the Matter of the Application of the Sheriff of Case No. A-20-813717-P
7 Clark County Regarding the Population of Dept. VII
8 Detention Services Division Facilities
9

10
11 Clark County Sheriff Joseph Lombardo has applied for an order to release certain
12 inmates due to the COVID-19 pandemic. I have reviewed Sheriff Lombardo's request
13 and consulted with Las Vegas Justice Court, Las Vegas Municipal Court, the Clark
14 County District Attorney, the Clark County Public Defender, the Clark County Special
15 Public Defender and the Director of the Department of Parole and Probation. After
16 consideration of the petition and input from criminal justice partners, the Sheriff's
17 petition is granted.

18 The Clark County Sheriff operates and maintains the Las Vegas Metropolitan
19 Police Department Detention Services Division. The Sheriff is obligated to ensure the
20 health, safety and welfare of inmates and employees in all Detention Services Division
21 facilities. NRS 211.030, NRS 248.050, NRS 211.140.
22

23 On March 12, 2020, Governor Steve Sisolak declared a state of emergency in
24 response to the recent outbreak of COVID-19. Among other orders, Governor Sisolak
25 has banned gatherings of more than ten people. To further prevent the spread of disease,
26 the Center for Disease Control recommends physical distancing of at least six feet
27 between people. During this time, it is critical to prevent the spread of any illness among
28

1 inmates housed in Detention Services Division facilities as well as among the employees
2 of the Detention Services Division.

3 EDCR 7.10 authorizes the Chief Judge to hear certain emergency matters. EDCR
4 1.30(b) authorizes the Chief Judge to hear miscellaneous petitions regarding criminal
5 matters, as well as to administer the Eighth Judicial District Court. The Chief Judge is
6 also given the authority to enter an order for the early release of prisoners to relieve
7 overcrowding by Nevada Revised Statute 211.240.
8

9 Additionally, Nevada Revised Statute 178.4851 provides that “Upon a showing of
10 good cause, a court may release without bail any person entitled to bail if it appears to the
11 court that it can impose conditions. . .that will adequately protect the health, safety and
12 welfare of the community. . .’ This decision is also supported by inherent judicial
13 authority. See *Hunter v. Gang*, 132 Nev. 249 (2016). Finally, past Chief Judges have
14 entered depopulation orders in circumstances where certain constitutional rights of
15 inmates may be impacted due to crowded conditions within detention facilities in the
16 Eighth Judicial District.
17

18 Nevada law provides that the operational capacity of the jail is the “number of
19 prisoners that may be safely housed in a jail in compliance with the regulations governing
20 the sanitation, healthfulness, cleanliness and safety of the jail. . . .” NRS 211.240(7).
21 When the operational capacity of the jail is exceeded, the Chief Judge may enter an order
22 permitting the sheriff to release inmates.
23

24 Detention Services Division facilities include the Clark County Detention Center
25 and the North Valley Complex. Under normal circumstances, those facilities have a
26 combined total capacity of 4,189 beds for inmates and a booking capacity of 250 inmates.
27 The Sheriff and other criminal justice partners have made significant efforts to reduce the
28

1 population in detention facilities during the COVID-19 pandemic, and have reduced the
2 population 30% relative to the available beds. Detention Services has also been required
3 to reserve areas to isolate inmates.
4

5 At the time of the writing of this Order, Detention Services houses 2,920 inmates
6 in beds and booking. Given social distancing requirements and the identification of a
7 COVID-19 positive inmate, this number of inmates constitutes overcrowding under NRS
8 211.240(7). The Sheriff needs to further reduce the population in the Detention Services
9 facilities by up to 10% to ensure the health and safety of inmates and staff. Additionally,
10 given the current health crisis, the Sheriff requires the flexibility to release inmates who
11 are at higher risk for serious illness. The ability to reduce the jail population in these
12 ways will assist the Sheriff in his responsibilities to the health and safety of the inmates.
13 At the same time, both the Sheriff and I recognize the priority of keeping our community
14 safe and decisions about the release of inmates must take into consideration any potential
15 risk of harm to the community.
16

17 Consequently, the Sheriff of Clark County is authorized to release the following
18 inmates from Detention Services Division facilities:
19

- 20
21 1. Inmates currently being held on a technical violation of probation or serving a jail
22 sentence for a technical violation of probation. "Technical violation" is defined
23 under NRS 176A.510 as a violation other than absconding from probation or from
24 committing a crime listed in NRS 176A.510(c).
- 25 2. Inmates serving jail sentences who are at high-risk for severe illness based on the
26 factors recognized by the CDC, including being over the age of 65 or suffering
27 from an identified underlying health condition. An inmate may not be released
28 under this provision if serving a sentence for a crime of violence or driving under
the influence of alcohol or a prohibited substance.

1 3. Inmates who have served at least 75% of their sentence under NRS 211.240.
2 Priority for releasing inmates under this provision shall be given to those who
3 expire their sentence the soonest.

4 Any person who meets the criteria listed above may be released while this order is in
5 effect. I will also note that the Sheriff has the statutory authority under NRS 211.250 to
6 supervise any sentenced inmate by electronic means as long as electronic supervision
7 poses no unreasonable risk to public safety and the inmate has appropriate housing.

8 This order will be in effect for 30 days from the date of filing as required by NRS
9 211.240(2).

13 Entered this 16th day of April 2020

14 

15 C8A 595 7254 92C0
16 LINDA MARIE BELL
17 Chief Judge
18 Eighth Judicial District Court

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DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Petition of CASE NO: A-20-813717-P
Clark County Detention Center DEPT. NO. Department 7

AUTOMATED CERTIFICATE OF SERVICE

Electronic service was attempted through the Eighth Judicial District Court's electronic filing system, but there were no registered users on the case. The filer has been notified to serve all parties by traditional means.

NRS 211.240 Early release of prisoners to relieve overcrowding.

1. Except as otherwise provided in subsection 2, the sheriff with respect to a county jail, or the officer in charge with respect to a city jail, may apply to the chief judge of the judicial district for authority to release prisoners pursuant to the provisions of this section. After considering the application, the chief judge may enter an order consistent with the provisions of this section granting authority to release prisoners in the manner set forth in the order. The duration of this authority, if granted, must not exceed 30 days.

2. In a county in which there is not a city jail, the sheriff may apply to the chief judge of the judicial district for authority to release prisoners pursuant to the provisions of this section. Upon receipt of such an application, the chief judge shall consult with a justice of the peace designated by the justices of the peace for the county and a judge designated by the municipal courts for the county. After the consultation, the chief judge may enter an order consistent with the provisions of this section granting authority to release prisoners in the manner set forth in the order. The duration of this authority, if granted, must not exceed 30 days.

3. At any time within the duration of an authority granted when the number of prisoners exceeds the operational capacity of the jail, the sheriff or other officer in charge may release the lesser of:

- (a) The number of prisoners eligible under this section; or
- (b) The difference between the number of prisoners and the operational capacity of the jail.

4. A prisoner is eligible for release only if the prisoner:

- (a) Has served at least 75 percent of his or her sentence;
- (b) Is not serving a sentence for a crime for which a mandatory sentence is required by statute;
- (c) Is not serving a sentence for a crime which involved an act of violence; and
- (d) Does not pose a danger to the community.

5. Among prisoners eligible, priority must be given to those whose expiration of sentence or other release is closest.

6. A prisoner released pursuant to this section may be required to remain on residential confinement for the remainder of his or her sentence or may be required to participate in another alternative program of supervision.

7. As used in this section, "operational capacity" means the number of prisoners that may be safely housed in a jail in compliance with the regulations governing the sanitation, healthfulness, cleanliness and safety of the jail that are adopted by the State Board of Health pursuant to [NRS 444.335](#).

Nevada JRI Implementation Plan

A.B. 236

Updated: April 24, 2020

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
<p><i>Additional Responsibilities of the Sentencing Commission</i> (Sect.6-7)</p>	<p>Requires the NV Sentencing Commission to:</p> <ol style="list-style-type: none"> 1. Track and assess outcomes resulting from, and trends observed after, the enactment of the bill and submit a biennial report regarding such outcomes and performance measures 2. Calculate for each fiscal year the costs avoided by the state because of this bill and submit a statement about the costs avoided and recommendations for reinvestment in certain programs 	<p>Sentencing Commission</p> <p>Specifically asked to report data: Department of Corrections, Division of Parole and Probation, and Central Repository for Nevada Records of Criminal History</p>	<ul style="list-style-type: none"> • Create list of performance measures • Work with agencies to develop baseline metrics • Support the Sentencing Commission in gathering and analyzing performance measures and assist with data visualization • Create/assist with the creation of the annual report to legislature • Develop a plan to calculate annual avoided costs • Assist with calculating the annual costs avoided for the first year • Report first year costs avoided 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Create a list of performance measures ✓ Develop a plan to calculate annual avoided costs <p>In Progress:</p> <ul style="list-style-type: none"> • Work with agencies to develop baseline metrics • Gather performance measures
<p><i>Creation and Responsibilities of the Local Justice Reinvestment Coordinating Council</i> (Sect. 8)</p>	<p>Creates the NV Local Justice Reinvestment Coordinating Council</p> <p>Advises the Sentencing Commission on matters concerning the provisions of the bill as they relate to local governments and nonprofit</p>	<p>Sentencing Commission</p>	<ul style="list-style-type: none"> • Provide support to the Sentencing Commission as they work with counties to appoint council members and identify a chair • Discuss with Council: 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Develop Practitioner Guide <p>In Progress:</p> <ul style="list-style-type: none"> • Finalize and distribute Practitioner Guide

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
	organizations and to perform certain other duties		<ul style="list-style-type: none"> ○ Who will identify what resources are available or missing ○ How will the missing resources be made available? ● Develop and distribute Practitioner Guide 	
<i>Training for judges on behavioral health needs and intellectual or developmental disabilities</i> (Sect. 12-13)	Training for judges on behavioral health needs and intellectual and developmental disabilities in the courts that use presentence investigation reports for the purpose of imposing a sentence Removes the requirement that presentence investigation reports contain recommendations (as defined)	Courts	<ul style="list-style-type: none"> ● Assist in finding training options as needed for judges on behavioral health needs and intellectual and developmental disabilities. ● Develop and distribute Practitioner Guide ● Work with in-state partners as they develop and distribute training on new laws to judges and lawyers 	Completed: ✓ Develop Practitioner Guide In Progress: <ul style="list-style-type: none"> ● Assist in identifying training options ● Distribute Practitioner Guide ● Support education on changes
<i>Training for Parole and Probation Officers</i> (Sect. 89 and 96)	Requires training in evidence based practices for facility and community correctional staff	Department of Corrections (NDOC) Division of Parole and Probation (NPP)	<ul style="list-style-type: none"> ● Train staff on evidence based practices ● Train and complete train the trainer for staff in Principles of Effective Intervention, Effective Case Management, and Core Correctional Practices ● Assist in finding an experienced partner to provide training on interacting with people who have experienced trauma, victims of domestic violence, people with behavioral health needs, and people with 	Completed: ✓ Create plan to train staff on evidence based practices In Progress: <ul style="list-style-type: none"> ● Revise training plan based on COVID-19 complications ● Develop quality assurance metrics

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
			intellectual and developmental disabilities <ul style="list-style-type: none"> • Work with NDOC and NPP to develop quality assurance procedures and performance metrics 	
<p><i>Graduated Sanctions and Response to Violations</i> (Sect. 18, 33, 35, 101)</p>	<p>Requires DPP to adopt a written system of graduated sanctions for officers to use when responding to technical violations</p> <p>Limits the situations in which a revocation would result in loss of good time and serving the rest of a sentence to: new felony or gross misdemeanor (changed from violation of any rule)</p> <p>Limits the amount of time a probationer or parolee can be sentenced to serve a temporary revocation for a technical violation – up to: 30 days for the 1st temporary revocation, 90 days for the 2nd, 180 days for the 3rd, full revocation for 4th or subsequent</p> <p>A probationer detained for a technical violation must be brought before the court within 15 calendar days or be released and returned to probation</p> <p>Prohibits the use of revocation as a response to certain acts</p>	<p>Division of Parole and Probation</p> <p>Parole Board (Section 101 only)</p>	<ul style="list-style-type: none"> • Develop and distribute internal policies on graduated sanctions • Create a graduated sanctions grid • Train staff and officers on new policies • Create quality assurance measures and collect performance metrics • Train and complete train the trainer on the use of graduated responses 	<p>Completed:</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Develop policies on graduated sanctions (under review) • Update graduated sanctions grid (under review) • Plan for training on use of graduated responses (under review) • Develop performance metrics • Create a fidelity plan

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
	<p>Defines “technical violation” and “absconding”</p>			
<p>Risk and Needs Assessment (Sect. 90 and 95)</p>	<p>Administer a risk and needs assessment to each offender. Use results to guide programming and placement decisions</p> <p>The risk and needs assessment must undergo a validation study every 3 years</p> <p>Department must establish a quality assurance procedure to ensure proper and consistent scoring</p> <p>Division must administer a risk and needs assessment to each probationer and parolee for setting level of supervision and developing individual case plans, and re-administer once every year to determine if a change in the level of supervision is necessary</p>	<p>Department of Corrections</p> <p>Division of Parole and Probation</p>	<ul style="list-style-type: none"> • Assist with roll out of NRAS • Assist with development of policies on the use of the tool • Train staff on the new policies and use of NRAS • Review NDOC policies on case plans – if necessary, alter to ensure each individual has a case plan • Help (if needed) NDOC and NPP develop list of treatment programming in the community to assist with individualizing case plans • Ensure case plans are built around NRAS results • Train staff on effective case management • Create quality assurance measures and collect performance metrics • Talk with UCCI about changes, coordinating efforts, and future validation of the tool 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Both NDOC and NPP have rolled out NRAS ✓ Both NDOC and NPP have policies on use of NRAS <p>In Progress:</p> <ul style="list-style-type: none"> • Create plan to train staff on effective case management (under review) • Update case plans (under review) • Train staff on new policies (under review) • Develop performance metrics • Create a fidelity plan
<p>Medical Release (Sect. 91)</p>	<p>Adds additional methods for medical release to be requested and submitted to the Director</p> <p>Allows for the Director to assign an offender to the Division to serve a term of residential confinement or</p>	<p>Department of Corrections</p> <p>Division of Parole and Probation</p>	<ul style="list-style-type: none"> • Support NDOC and NPP in updating policies on medical release • Educate staff on new policies 	<p>Completed:</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Support NDOC and NPP in updating policies on medical release

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
	<p>other appropriate supervision for not longer than the remainder of their sentence if the person is physically incapacitated or in ill health to such a degree that the offender does not pose a threat to the safety of the public or in ill health and expects to die within a certain number of months. This bill increases the eligibility criteria to apply to people within 18 months of release (from 12 months)</p>			
<p>Geriatric Parole (Sect. 93.3)</p>	<p>Authorizes the Board to grant geriatric parole in certain situations</p>	<p>Parole Board Division of Parole and Probation</p>	<ul style="list-style-type: none"> • Support Parole Board in updating internal policies • Educate staff on new policies • Work with NPP to prepare for this special population 	<p>Completed:</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Support Parole Board in updating internal policies • Educate staff on new policies • Work with NPP to prepare for this special population
<p>Other Parole Changes (Sect. 97)</p>	<p>The Board may grant parole without a meeting to prisoners who meet certain criteria</p>	<p>Parole Board</p>	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	<p>Completed:</p> <p>✓ Develop Practitioner Guide</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
<p>Reentry (Sect. 92, 100)</p>	<p>Department is required to develop a reentry plan no later than 6 months before release</p>	<p>Department of Corrections Division of Parole and Probation</p>	<ul style="list-style-type: none"> • Support internal education efforts • Work with NDOC to develop policies/procedures to ensure all 	<p>Completed:</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Support internal education efforts

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
	<p>NDOC must ensure every releasing individual has:</p> <ul style="list-style-type: none"> • Photo ID • Clothing • Certain transportation costs • If appropriate, release to a transitional living facility • If eligible, complete enrollment application paperwork for Medicaid and Medicare; and • If applicable, a 30-day supply of prescribed medication. 		<p>releasing individuals have necessary materials</p>	<ul style="list-style-type: none"> • Work with NDOC to develop policies/procedures to ensure all releasing individuals have necessary materials
<p>Early Discharge (Sect. 93.7 – parole Sec. 17 - probation)</p>	<p>Requires the Division to recommend the early discharge of a person under the following circumstances:</p> <p>Parole</p> <ul style="list-style-type: none"> • Has served at least 12 calendar months and is projected to have not more than 12 months remaining to • Has not been found by the Board to be in violation of any condition of parole during the preceding 12 months • Is current with any fee to defray the costs of supervision • Has paid restitution in full or is unable to make restitution due to economic hardship • Has completed substance use or mental health treatment or a specialty court program as mandated by the Board 	<p>Division of Parole and Probation</p> <p>Parole Board</p>	<ul style="list-style-type: none"> • Develop and distribute Practitioner Guide • Help NPP develop/revise internal policies • Support communication to staff on revised policies • Assist the Division in developing performance metrics 	<p>Completed:</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Develop and distribute Practitioner Guide • Revise NPP internal policies and forms (under review) • Create training materials on new policies (under review) • Develop performance metrics • Create a fidelity plan

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
	<p>Probation</p> <ul style="list-style-type: none"> • Has not been found by the Court to be in violation of any condition or probation during the preceding 12 months • Is current with any fee to defray the costs of supervision • Has paid restitution in full or is unable to make restitution due to economic hardship • Has completed substance use or mental health treatment or a specialty court program as mandated by the Board • Has not been convicted of a violent or sexual offense 			
<p><i>Evaluation, Certification, and Monitoring of programs for the treatment of persons who commit domestic violence</i> (Sect. 110.5 and 102)</p>	<p>DPBH programs must ensure programs for DV treatment meet certain criteria (such as being based on EBP)</p>	<p>Division of Public and Behavioral Health</p>	<ul style="list-style-type: none"> • Assist DPBH in revising policies, including those affecting contractors and vendors • Support communication to staff on revised policies • Develop and distribute Practitioner Guide 	<p>Completed: ✓ Develop Practitioner Guide</p> <p>In Progress: • Distribute Practitioner Guide</p>
<p><i>Behavioral Health Grant Program</i> (Sect. 104)</p>	<p>Requires POST to develop and implement, subject to available funding, a behavioral health field response grant program to allow law enforcement and behavioral health</p>	<p>Peace Officer Standards and Training Commission ("POST")</p>	<ul style="list-style-type: none"> • Support POST in developing grant program (including developing application and selection criteria) 	<p>Completed:</p> <p>In Progress: • Support POST in developing grant program</p>

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
	<p>professionals to safely respond to crises involved persons with behavioral health issues</p> <p>Requires POST to submit annual report during each year the grant program is funded</p>		<ul style="list-style-type: none"> Support the development of quality assurance procedures and performance metrics 	
<p>Law Enforcement Behavioral Health Response (Sect. 105)</p>	<p>Requires each law enforcement agency to develop policies for interacting with people with behavioral health issues</p> <p>If funds are available, also requires agencies to contract with or employ a behavioral health specialist</p>	<p>Local law enforcement agencies</p>	<ul style="list-style-type: none"> Support the development of policies for interacting with people with behavioral health needs 	<p>Completed:</p> <p>In Progress:</p> <ul style="list-style-type: none"> Training and education for law enforcement officers on changes from AB 236
<p>POST Training (Sect. 104, 105, 107, 108)</p>	<p>Requires POST to develop and approve a standard curriculum of certified training programs in crisis intervention to address specialized responses to persons with mental illness</p> <p>Requires POST to establish by regulation standards for a voluntary program for the training of law enforcement dispatchers that includes training related to such crisis intervention</p>	<p>POST</p> <p>Local law enforcement agencies</p>	<ul style="list-style-type: none"> Assist in the identification of certified training programs in crisis intervention, including agency needs for meeting these criteria Support the development of quality assurance procedures and performance metrics 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ POST has a certified crisis intervention curriculum ✓ Updated trainings with changes from AB 236 ✓ Many law enforcement officers have been trained in crisis intervention training <p>In Progress:</p> <ul style="list-style-type: none"> Training and education for law enforcement officers on changes from AB 236
<p>Specialty Court Definition (Sect. 16.5)</p>	<p>Adds the definition of Specialty Court</p>	<p>Court</p>	<ul style="list-style-type: none"> Support education efforts Develop and distribute Practitioner Guide 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Develop Practitioner Guide <p>In Progress:</p> <ul style="list-style-type: none"> Distribute Practitioner Guide

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
				<ul style="list-style-type: none"> Support education on changes
<p><i>Establishment of a program for the treatment of drug/alcohol Use</i> (Sect. 20-23)</p>	<p>Establishes a court program for the treatment of drug or alcohol use</p>	<p>Courts</p>	<ul style="list-style-type: none"> Support education efforts Develop and distribute Practitioner Guide Support efforts to connect courts with local P&P for information sharing on local treatment/programming 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Develop Practitioner Guide <p>In Progress:</p> <ul style="list-style-type: none"> Distribute Practitioner Guide Support education on changes
<p><i>Discharge from probation due to completion of treatment program</i> (Sect. 27, 29, 29.5, 30)</p>	<p>Allows courts to require an individual attend treatment as a condition of probation</p> <p>Also revises eligibility requirements for participation in the treatment of mental illness, intellectual disabilities; and the treatment of veterans and members of the military</p>	<p>Courts</p>	<ul style="list-style-type: none"> Support education efforts Develop and distribute Practitioner Guide Support efforts to connect courts with local P&P for information sharing on local treatment/programming 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Develop Practitioner Guide <p>In Progress:</p> <ul style="list-style-type: none"> Distribute Practitioner Guide Support education on changes
<p><i>Probation Sentence Reform</i> (Sect. 34)</p>	<p>Changes the maximum length of probation to no more than:</p> <ul style="list-style-type: none"> 12 months for a gross misdemeanor 18 months for a category E felony 24 months for a category C or D felony 36 months for a category B felony 60 months for a violent or sexual offense 	<p>Courts</p> <p>Division of Parole and Probation</p>	<ul style="list-style-type: none"> Develop and distribute Practitioner Guide Support education of judges and lawyers Support NPP in updating policies Assist in communicating changes to staff 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Develop Practitioner Guide <p>In Progress:</p> <ul style="list-style-type: none"> Distribute Practitioner Guide Support education on changes Update internal NPP policies (under review)

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
Mandatory Probation (Sect. 24)	Removes exceptions to mandatory probation	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	Completed: ✓ Develop Practitioner Guide In Progress: <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
Deferred Judgment (Sect. 19)	Authorizes a court to defer judgment. When the defendant has met the conditions, the court is required to discharge the defendant and dismiss the proceedings	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	Completed: ✓ Develop Practitioner Guide In Progress: <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
Petition for sealing of records for invasion of a home with a deadly weapon (Sect. 37)	Prohibits a person from petitioning for sealing of records relating to a conviction of invasion of the home with a deadly weapon	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	Completed: ✓ Develop Practitioner Guide In Progress: <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
Burglary Offenses (Sect. 55)	Establishes certain types of burglary and various penalties for each type imposed	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	Completed: ✓ Develop Practitioner Guide In Progress: <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
<i>Felony Theft Changes</i> (Sect. 58)	Increases felony theft threshold to \$1,200 and establishes tiers of penalties based on value of the property or services	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	<p>Completed: ✓ Develop Practitioner Guide</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
<i>Theft Offenses Changes</i> (Sect. 59, 60, 61-64, 65-83, 85, 126, 131, 132)	Makes changes to various theft offenses that use monetary thresholds	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	<p>Completed: ✓ Develop Practitioner Guide</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
<i>Scanning Devices as a crime</i> (Sect. 84.3, 84.5)	Reduces using a scanning device as a crime from a Category B felony to a Category B felony	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	<p>Completed: ✓ Develop Practitioner Guide</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes
<i>Habitual Criminal</i> (Sect. 86)	Changes habitual criminal statute Increases the number of previous convictions necessary to be counted as “habitual criminal,” and prohibits the consideration of certain low level drug offenses towards that tally	Courts	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	<p>Completed: ✓ Develop Practitioner Guide</p> <p>In Progress:</p> <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes

Policy	Key Components	Agency Responsible	Anticipated CJJ Technical Assistance	Actual Technical Assistance and Status
<p><i>Changes to certain drug offenses</i> (Sect. 84, 111, 112, 113, 116, 117, 119, 122.5, 125, and 130)</p>	<p>Decreases penalties for certain controlled substance offenses</p> <p>Establishes the crimes of low-level trafficking and high-level trafficking</p> <p>Decreases the penalty for use or being under the influence of a controlled substance to a misdemeanor, regardless of the schedule in which the controlled substance is listed</p> <p>Reduces the penalty for various crimes that are currently category B felonies to a category C felony</p>	<p>Courts</p>	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	<p>Completed:</p> <ul style="list-style-type: none"> ✓ Develop Practitioner Guide <p>In Progress:</p> <ul style="list-style-type: none"> • Distribute Practitioner Guide • Support education on changes

Practitioner Guide to AB 236

*Nevada Advisory Commission on the Administration of Justice –
Justice Reinvestment Initiative*



Version as of April 2020

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An Introduction to Assembly Bill 236

In 2018, Governor Brian Sandoval, Supreme Court Chief Justice Michael Douglas, Speaker Jason Frierson, and Senate Majority Leader Aaron Ford charged the Advisory Commission on the Administration of Justice (ACAJ) with developing comprehensive crime- and recidivism-reduction strategies, while shifting resources toward more cost-effective public safety strategies.

The ACAJ, a bipartisan group of criminal justice stakeholders, included representatives from the judiciary, legislature, law enforcement, prosecutorial and defense bars, corrections agencies, and the community. To fulfill the charge by state leadership, the ACAJ completed a comprehensive analysis of the state's sentencing and community supervision data, assessed current policies and practices, evaluated best practices in other states, and deliberated over policy recommendations.

The ACAJ found that over the past decade, Nevada's prison population has grown significantly, resulting in higher spending on prisons and fewer resources available for recidivism reduction measures. In fiscal year 2019, the correctional system cost Nevada taxpayers \$347 million, crowding out the state's ability to fund treatment and services. In addition, the ACAJ found:

- 1) Nonviolent offenders made up two-thirds of those entering prison in 2017, with four out of 10 offenders having no prior felony convictions;
- 2) Thirty-nine percent of prison admissions were due to failures of probation or parole supervision; analysis of violation reports revealed 34 percent were for technical violations and 44 percent derived from a substance use issue;
- 3) Offenders in Nevada were spending 20 percent longer behind bars than they were a decade ago, and despite this, recidivism rates have increased for nearly all offense types;
- 4) The number of women admitted to prison increased 39 percent in the last decade and the female imprisonment rate was 43 percent higher than the national average; and
- 5) The number of people admitted to prison with an identified mental health need increased 35 percent over the last decade, and over 50 percent of the female prison population have an identified mental health need.

Over a period of six months, the ACAJ reviewed data and research, assessed policies and practices, evaluated best practices from other states, and conducted two victim roundtables. The ACAJ used the information gathered to develop 25 policy recommendations to focus prison space on serious and violent offenders, reduce recidivism, strengthen supervision practices, improve release and reentry procedures, ensure oversight and accountability, and strengthen responses to justice-involved individuals with behavioral health needs. These recommendations were included in Assembly Bill 236, which passed with strong bipartisan support. The bill was signed into law by Governor Steve Sisolak on June 14, 2019.



Sentencing

Property Offenses

Burglary

NRS § 205.060 and NRS § 205.067

AB 236 Sections 55 and 56

Effective July 1, 2020 – not retroactive

Under prior statute in Nevada, the penalty for burglary was a Category B felony with a sentence range of 1-10 years and did not require unlawful entry as an element of burglary or distinguish between different types of structures. AB 236 defines dwelling and adds the element of unlawfully entering and unlawfully remaining to the burglary statute and defines “unlawfully enters or unlawfully remains” as a person entering or remaining in a dwelling, structure or motor vehicle or any part thereof, including under false pretenses, when the person is not licensed or privileged to do so. AB 236 further amends the burglary statute to distinguish different types of structures involved by establishing tiered penalties by type of structures as follows:

Name	Description	Felony Class
Residential Burglary	Dwelling - any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car, including, without limitation, any part thereof that is divided into a separately occupied unit in which any person lives or which is customarily used by a person for overnight accommodations, regardless of whether the person is inside at the time of the offense.	Category B felony – 1-10 yrs
Burglary of a Business	Business structure - any structure or building, the primary purpose of which is to carry on any lawful effort for a business, including, without limitation, any business with an educational, industrial, benevolent, social or political purpose, regardless of whether the business is operated for profit	Category C felony – 1-6 years
Burglary of a Motor Vehicle	Motor vehicle or any part thereof - any motorized craft or device designed for the transportation of a person or property across land or water or through the air which does not qualify as a dwelling or business structure	For the first offense: Category E felony – 1-4 years For a second or subsequent offense: Category D felony – 1-4 years
Burglary of a Structure	Structure other than a dwelling, business structure or motor vehicle	Category D felony – 1-4 years
Home Invasion	Forcibly enters a dwelling without permission of owner, resident or lawful occupant	Category B – 2-15 years (unchanged)

In addition, AB 236 expands probation eligibility for those convicted of residential burglary if mitigating circumstances as determined by the court are present and if the individual has not been previously convicted of residential burglary or another crime involving the unlawful entry or invasion of a dwelling.

Theft

Statutes listed in Appendix A

AB 236 Section 58, 59, 60, 61-64, 65-83, 85, 126, 131, 132

Effective July 1, 2020 – not retroactive

Theft			
NRS § 205.0835			
Previous Law		Current Law	
Amount	Penalty	Amount	Penalty
<\$650	Misdemeanor – 0-6 months jail	<\$1,200	Misdemeanor – 0-6 months jail
≥\$650 but <\$3,500	Category C felony – 1 -4 years	≥\$1,200 but <\$5,000	Category D felony – 1-4 years
≥\$3,500	Category B felony – 1-10 years	≥\$5,000 but <\$25,000	Category C felony – 1-5 years
		≥\$25,00 but <\$100,000	Category B felony – 1-10 years
		≥\$100,000	Category B felony – 1-20 years

The current tiered penalty structure for theft (NRS § 205.0835) described in the above chart reflects similar changes to thresholds, as applicable, to the following offenses: grand larceny (NRS § 205.220, NRS § 205.222); petit larceny (NRS § 205.240); theft of scrap metal (NRS § 205.267); offense involving stolen property [or receiving stolen property] (NRS § 205.275); obtaining money, property, rent or labor by false pretenses (NRS §205.380); and repayment of benefits received as result of false statement or failure to disclose material fact (NRS § 612.445).

Other changes to property offenses in AB 236 include:

- Repealing the separate offense of **theft from a vending machine** (NRS § 205.2707) which would allow such conduct to be considered under the general theft statute.
- Raising the felony threshold (that is, the dollar amount at which a theft is classified as a felony) from \$650 to \$1,200 for the following offenses:
 - Issuance of check or draft without sufficient money or credit (NRS § 205.130);
 - Fraudulently selling the same real estate twice (NRS § 205.365);
 - Swindling or obtaining credit by false representations (NRS § 205.370);
 - Multiple transactions involving fraud or deceit in course of enterprise or occupation (NRS § 205.377);
 - Collecting for benefit without authority (NRS § 205.415);
 - Defrauding proprietor of hotel, inn, restaurant, motel or similar establishment (NRS § 205.455);
 - Issue of document of title for goods not received (NRS § 205.520);
 - Issuance of duplicate or additional negotiable document of title not so marked (NRS § 205.540);
 - Obtaining or negotiating document of title for goods with intent to defraud (NRS § 205.570);
 - Inducing bailee to issue negotiable document of title when goods have not been received (NRS § 205.580);
 - Negotiation of document of title when goods are not in bailee's possession (NRS § 205.590);
 - Unlawful receipt of fee, salary, deposit or money to obtain loan for another (NRS § 205.950).
 - Theft of device to prevent, control, extinguish or give warning of fire (NRS § 475.105);
 - Unlawful activities concerning traps, snares or similar devices owned by another person (NRS § 501.3765);
- Amending the penalty for **grand larceny of a motor vehicle** (NRS § 205.228) by removing the value threshold and categorizing the offense as a Category C felony regardless of value and establishing a penalty for a second or subsequent offense within 5 years as a Category B felony, with a penalty of 1-6 years regardless of value.
- Amending the penalty for **larceny from a person** (NRS § 205.270) by removing the value thresholds and categorizing the offense as a Category C felony regardless of value.
- Amending the penalty for an **offense involving a stolen vehicle** (NRS § 205.273) by removing the value thresholds and categorizing the offense as a Category C felony regardless of value.
- Reclassifying the felony for the offense of **using scanning device or reencoder to defraud** (NRS § 205.605) from a Category B felony to a Category C felony.
- Clarifying the conduct required by the offense of **possession of scanning device or reencoder for unlawful purpose** (NRS § 205.606) to include installing or affixing, temporarily or permanently, a scanning device within or upon a machine with the intent to use the scanning device for an unlawful purpose or accessing, by electronic or any other means, a scanning device with the intent to use the scanning device for an unlawful purpose, in addition to possession.

Drug Offenses

Possession of a Controlled Substance

NRS § 453.336; NRS § 453.3361

AB 236 Sections 20-22, 113, 115, and 116

Effective July 1, 2020 – not retroactive

Prior law in Nevada did not include weight thresholds for the following drug offenses: possession of a controlled substance; possession for the purpose of sale; or sale, manufacture or delivery of a controlled substance. The only law that included a weight level was the offense of trafficking, which started at 4 grams for schedule I substances. AB 236 establishes a tiered penalty structure for drug possession based on increasing amounts of controlled substances as follows:

Possession of a Controlled Substance Offenses

Schedule	Previous Law			Current Law		
	Amount	Conviction	Felony Class and Penalty	Amount	Conviction	Felony Class and Penalty
Schedule I and II	<4g	1 st or 2 nd	E – 1-4 years, presumptive probation	<14g	1 st or 2 nd	Category E felony – Mandatory deferral
		3 rd or subsequent, or if offender has previously been convicted 2+ times in aggregate of any violation of the law related to controlled substances	D – 1-4 years		3 rd or subsequent	Category D felony – 1-4 years
				≥14g but <28g	Any conviction	Category C felony – 1-6 years
				≥28g but <42g	Any conviction	Category B felony – 1-10 years
		≥42g but <100g	Any conviction	Category B felony – 2-15 years		
Schedule III and IV *Except flunitrazepam and gamma-hydroxybutyrate (GHB)	<4g	1 st or 2 nd	E – 1-4yrs, presumptive probation	<28g	1 st or 2 nd	Category E felony – Mandatory deferral
		3 rd or subsequent, or if offender has previously been convicted 2+ times in aggregate of any violation of the law related to controlled substances	D – 1-4 years		3 rd or subsequent	Category D felony – 1-4 years
				≥28g but <200g	Any conviction	Category C felony – 1-6 years
				≥200g	Any conviction	Category B felony – 1-10 years
Flunitrazepam, GHB, or any immediate precursors to those substances	<4g	Any conviction	B – 1-6 years	<100g	Any conviction	Category B felony – 1-6 years (unchanged) Not eligible for probation or suspended sentence

Schedule V	<4g	1 st	E – 1-4 years, presumptive probation	<28g	1 st or 2 nd	Category E felony – Mandatory deferral
		2 nd or subsequent	D – 1-4 years		3 rd or subsequent	Category D felony – 1-4 years
			≥28g but <200g	Any conviction	Category C felony – 1-6 years	
			≥200g	Any conviction	Category B felony – 1-10 years	
AB 236 authorizes the court to grant probation for possession offenses if there are mitigating circumstances.						

Mandatory Substance Abuse Treatment

Under prior law, an offender convicted for the first or second offense of possession of an ounce or less of marijuana is guilty of a misdemeanor and may be examined by a treatment provider and assigned to a treatment and rehabilitation program.

AB 236 requires the establishment of a program for the treatment of drug or alcohol use to which a court may assign eligible defendants. The assignment must include the terms and conditions for successful completion of the program and provide for periodic progress reports (at intervals set by the court) to ensure the defendant is making satisfactory progress toward completing the program.

AB 236 requires judges defer sentencing for first- and second-time offenders convicted of possession of certain quantities of controlled substances (under 14 grams for a schedule I or II substance, or under 28 grams for a Schedule III-VI substance). If the offender completes the conditions as set by the court, the case must be dismissed.

Opening or Maintaining a Place for Unlawful Sale, Gift or Use of Controlled Substance

[NRS § 453.316](#)

[AB 236 Section 111](#)

Effective July 1, 2020 – not retroactive

AB 236 reclassifies opening or maintaining a drug house as follows:

Previous Law		Current Law	
Conviction	Penalty	Conviction	Penalty
1 st	Category B felony, 1-6 years	1 st	Category C felony, 1-5 years
2 nd or subsequent	Category B felony, 2-10 years	2 nd or subsequent	Category B felony, 1-6 years

Commercial Controlled Substance Offense

NRS § 453.321

AB 236 Section 112

Effective July 1, 2020 – not retroactive

AB 236 reclassifies sale, transport, manufacture or distribution of controlled substances as follows and expands probation eligibility to second and third-time offenders as follows:

Drug Offense	Previous Law		Current Law	
	Conviction	Penalty	Conviction	Penalty
Sch. I or II Controlled Substances	1 st	Category B felony, 1-6 years Probation eligible	1 st	Category C felony, 1-5 years Probation eligible
	2 nd	Category B felony, 2-10 years Not probation eligible	2 nd	Category B felony, 2-10 years Probation eligible if mitigating circumstances exist
	3 rd or subsequent	Category B felony, 3-15 years Not probation eligible	3 rd or subsequent	Category B felony, 3-15 years Probation eligible if mitigating circumstances exist
Sch. III - V Controlled Substances	1 st	Category C felony, 1-5 years Probation eligible	1 st	Category D felony, 1-4 years Probation eligible
	2 nd	Category B felony, 2-10 years Not probation eligible	2 nd	Category C felony, 1-5 years Probation eligible if mitigating circumstances exist
	3 rd or subsequent	Category B felony, 3-15 years Not probation eligible	3 rd or subsequent	Category B felony, 2-10 years Probation eligible if mitigating circumstances exist

Possession for Purpose of Sale

NRS § 453.337; NRS § 453.338

AB 236 Section 116; Section 117

Effective July 1, 2020 – not retroactive

AB 236 authorizes judges to impose probation for those convicted of unlawful possession for purpose of sale if mitigating circumstances (as defined by the court) exist. However, probation is not available if flunitrazepam or gamma-hydroxybutyrate is the controlled substance involved.

Trafficking in Controlled Substances

NRS § 453.3385; NRS § 453.339; NRS § 453.3405

AB 236 Section 119; Section 122

Effective July 1, 2020 – not retroactive

AB 236 amends the penalties for trafficking in controlled substances as follows:

Trafficking in Controlled Substances Offense	Previous Law			Current Law				
	Weight	Conviction	Penalty	Weight	Conviction	Penalty		
Sch. I Controlled Substances	≥4g but <14g	Any	Category B felony, 1-6 years	Sch. I & II Controlled Substances	≥100g but <400g	Any	Category B felony, 2-20 years	
	≥14g but <28g	Any	Category B felony, 2-15 years					
	≥28g	Any	Category A felony, Life or 25 years, parole eligibility at 10 years					
Sch. II Controlled Substances	≥28g but <200g	Any	Category C felony, 1-5 years		≥400g	Any		Category A felony, 10 years-Life or 25 years, parole eligibility at 10 years
	≥200g but <400g	Any	Category B felony, 2-10 years					
	≥400g	Any	Category A felony, Life/15 years, parole eligibility after 5 years					
Flunitrazepam and GHB, or any immediate precursors to those substances	≥4g but <14g	Any	Category B felony, 1-6 years	≥100g but <400g	Any	Category B felony, 2-20 years		
	≥14g but <28g	Any	Category B felony, 2-15 years				≥400g	Any

Trafficking in Controlled Substances Offense	Previous Law			Current Law			
	≥28g	Any	Category A felony, Life or 25 yrs, parole eligibility at 10 yrs				Category A felony, Life or 25 yrs, parole eligibility at 10 yrs

Knowingly Using or Being Under the Influence of Controlled Substances

NRS § 453.411

AB 236 Section 122.5

Effective July 1, 2020 – not retroactive

AB 236 amends the penalties for knowingly using or being under the influence of a controlled substance from a Category E felony for schedule I-IV controlled substances and a gross misdemeanor for schedule V controlled substances to a misdemeanor for all schedules of controlled substances.

Sentencing Enhancements

Habitual Criminal Enhancement

NRS § 207.010

AB 236 Section 86

Effective July 1, 2020 – not retroactive

Any offender convicted of a felony may be classified as a habitual criminal if he or she has been previously convicted of a certain number of felonies, in Nevada or elsewhere, as follows:

Previous Law	Current Law	Penalty
Two prior felonies	Five prior felonies*	Category B felony 5-20 years
Three prior felonies	Seven prior felonies*	Category A felony Life without parole, life with possibility of parole with eligibility for parole beginning when min. of 10 years has been served, or definite term of 25 years with eligibility for parole beginning when minimum of 10 years has been served

*A previous or current conviction of certain possession of controlled substance offenses (Section 86, subsection 2, paragraphs a, b, and c of NRS § 453.336 and NRS § 453.411) may not be used as a basis for convicting a person as a habitual criminal, unless the person is violation of NRS § 453.336 for possession of any amount of flunitrazepam, gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

Miscellaneous Offenses

Gaming Offenses

NRS § 465.088

AB 236 Section 125

Effective July 1, 2020 – not retroactive

AB 236 reclassifies the penalties for gaming offenses to a Category C felony for the first offense and a Category B felony for the second offense.

Motor Offenses

NRS § 484D.335

AB 236 Section 130

Effective July 1, 2020 – not retroactive

AB 236 reclassifies the criminal penalties for knowingly selling a motor vehicle whose odometer has been altered for the purpose of fraud from a Category B felony to a Category C felony.

Pre-Sentence Investigation

NRS § 176.145

AB 236 Section 13

Effective July 1, 2020 – not retroactive

AB 236 removes the requirement for the Division of Parole and Probation to include a sentencing recommendation as part of the statutorily required Pre-Sentence Investigation report.



Alternatives to Incarceration

Specialty Court Programs

Definition of Specialty Court Program

NRS Chapter 176A – New Section

AB 236 Section 16.5

Effective July 1, 2020 – not retroactive

AB 236 defines a Specialty Court Program to include the mental health court program, veterans court program, and new section 20 of this Act for drug treatment programs.

Drug or Alcohol Use Disorder Treatment Program

NRS Chapter 176A – New Section

AB 236 Section 20 – Section 23

Effective July 1, 2020 – not retroactive

Under prior law, Nevada’s drug court programs did not have the statutory authority under this Chapter, but rather were authorized in two sections under the controlled substances act in Chapter 453. For consistency and clarity, AB 236 created a section paralleling existing law, which authorized veterans’ treatment courts and mental health treatment courts, and drug and alcohol use disorder treatment courts. The language in AB 236 authorizes a court to establish a program for the treatment of drug or alcohol use disorder, to which the court may assign the defendant. When a defendant is assigned to such a program, the terms and conditions for successful completion of the program must be established and include progress reports at intervals set by the court to ensure the defendant’s satisfactory progress. An individual may be assigned to the program through a deferred sentence or condition of probation through a suspended sentence, or if the individual has been convicted of possession of a controlled substance for the first or second time.

If a participant violates a term or condition of the program, the court may enter a judgement of conviction and sentence the individual according to law, including an order to the custody of the Department of Corrections, if applicable.

If a participant successfully completes the conditions of the program, the court shall dismiss the case and discharge the defendant from probation and the proceedings. However, if the individual has a prior felony conviction and has previously failed a specialty court program, the court is not required to discharge the defendant from probation and dismiss the proceedings. Instead, the court may discharge and dismiss if the circumstances warrant it.

Discharge and dismissal through this process is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute, regulation, license, questionnaire, or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. The court shall order the sealing of the defendant’s record without a hearing, unless the Division of Parole and Probation or the prosecutor petitions the court for good cause shown not to seal the records and requests a hearing.

Eligibility

A defendant is eligible for participation in this program if the defendant is diagnosed as having a substance use disorder or any co-occurring disorder after an in-person clinical assessment by a counselor or physician who is licensed or certified to make such a diagnosis. A counselor or physician who diagnoses a defendant as having a substance use disorder must submit a report and recommendation to the court concerning the length and type of treatment required for the defendant.

A defendant is not eligible for the program if he or she committed a Category A felony or a Category B felony that is a sexual offense as defined in NRS § 179D.097.

A justice or municipal court may, upon approval of the district court, transfer original jurisdiction to district court for a defendant's case if the defendant has not yet entered a guilty plea or been found guilty of an offense that is a misdemeanor, has been diagnosed as having a substance use disorder after an in-person clinical assessment, and would benefit from a drug or alcohol use disorder treatment program.

Mental Illness or Intellectual Disability Treatment Program

NRS § 176A.250, NRS § 176A.260, NRS 176A.265

AB 236 Section 26; Section 27; Section 28

Effective July 1, 2020 – not retroactive

AB 236 defines the mechanisms by which a court may assign a defendant to a program for the treatment of mental illness or intellectual disabilities. Under new law, an individual can be assigned to the program as a condition of probation or through a deferred judgment as established by AB 236.

Upon successful completion of the conditions of the program, AB 236 requires the court dismiss the case and discharge the defendant from probation and the proceedings, unless the defendant has a prior felony conviction or has previously failed to complete a specialty court program. In these cases, the court may discharge the defendant from probation and dismiss the proceedings, but is not required to.

Eligibility

To be eligible for the program, AB 236 requires that the individual must have a mental illness or intellectual disability diagnosed by an in-person clinical assessment or a mental health screening. A counselor or physician who diagnoses a defendant as having a mental illness or intellectual disability must submit a report and recommendation to the court concerning the length and type of treatment required for the defendant within the maximum probation term applicable to the defendant.

AB 236 removes prior prohibitions so that defendants who have been convicted of offenses involving the use or threatened use of force or violence in Nevada and elsewhere are eligible for the program. Only individuals who have been convicted of a Category A felony or a Category B felony sexual offense as defined by NRS § 179D.097 are ineligible for the program.

Veterans Treatment Program

*NRS § 176A.280, NRS § 176A.287, NRS § 176A.290, NRS § 176A.295
AB 236 Section 29; Section 29.5; Section 30; Section 31
Effective July 1, 2020 – not retroactive*

AB 236 defines the mechanisms by which a court may assign a defendant to a program for the treatment of veterans. Treatment includes programs to address mental health needs, substance use disorders, traumatic brain injuries, or military sexual trauma. Under new law, a court may assign a defendant to such a program as a condition of probation or through a deferred judgment as established by AB 236. AB 236 also authorizes the justice court or municipal court to assign individuals to such a program by suspending proceedings of a misdemeanor sentence for a defendant and place upon them terms and conditions that include the attendance and completion of a program pursuant to NRS § 176A.280.

Upon completion of the conditions of the program, AB 236 requires the court dismiss the case and discharge the defendant from probation and the proceedings. However, if the defendant has a prior felony conviction or has previously failed to complete a specialty court program, the court may (but is not required to) discharge the defendant from probation and dismiss the proceedings.

AB 236 removes the requirement that assignment to a veterans court be for a period of at least 12 months, meaning a defendant may be assigned to a veterans court for any length of time at the discretion of the court.

Eligibility

AB 236 also removes some prior eligibility restrictions and creates new ones.

AB 236 *removes* restrictions that excluded the following groups from participation in a veterans court:

- Defendants who have previously been assigned to a veterans court program; and
- Defendants who have committed an offense involving the use or threatened use of force or violence, or if the defendant had previously been convicted in Nevada or another jurisdiction for a felony involving the use or threatened use of force or violence.

AB 236 *adds* eligibility requirements for participation in a veterans court:

- Each veterans court participant must be diagnosed with an assessed need resulting from military service or readjustment to civilian life following military service. Areas for evaluation include: mental illness, alcohol or drug use, posttraumatic stress disorder or a traumatic brain injury. Each participant must be evaluated through an in-person clinical assessment by a counselor or physician, or by the results of a mental health or substance use screening.
- Defendants who have been convicted of a Category A felony or a Category B felony sexual offense as defined by NRS § 179D.097 are excluded from participation.

Deferred Judgment

NRS Chapter 176A – New Section; NRS § 4.373; NRS § 5.055

AB 236 Section 19; Section 45; Section 49

Effective July 1, 2020 – not retroactive

AB 236 establishes a deferred sentence option for judges to use when circumstances warrant it (eligibility requirements included below). Under this new sentence, judges may accept a guilty plea but defer entry of judgment and impose terms and conditions upon the defendant. The conditions imposed are at the discretion of the judge and may include: the payment of restitution, court costs or an assessment; the completion of community service; placement on probation; or the completion of a specialty court program.

If the court finds the defendant *has* met the assigned terms and conditions, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal through this process is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. The court shall order the sealing of the defendant's record, without a hearing unless the Division of Parole and Probation or the prosecutor petitions the court for good cause shown not to seal the records and requests a hearing.

If the court finds the defendant *has not* met the assigned terms and conditions, the judge may enter a judgment of conviction and proceed with sentencing pursuant to the section to which the defendant was charged or the court may order the defendant to the custody of the Department of Corrections if the offense is punishable as such.

AB 236 requires that a deferred judgment be imposed for individuals who enter a plea of guilty for possession of a controlled substance for the first and second conviction for schedule I and II substances below 14 grams and for schedule III, IV and V substances below 28 grams. If a defendant violates a term or condition, the court may either allow the defendant to continue to participate in the deferred judgment program, or may terminate the defendant's participation in the program. If the court decides to terminate the defendant's participation in the deferred judgement program, the court shall allow the defendant to withdraw his or her plea.

AB 236 codifies current practice by establishing authority for a justice of the peace to suspend a portion of a sentence for someone convicted of a misdemeanor.

Eligibility

Deferred judgments are prohibited for any defendant who has been convicted of a violent or sexual offense as defined in NRS § 202.876, a crime against a child as defined in NRS § 179D.0357, or abuse, neglect or endangerment of child as defined in NRS § 200.508.

Presumptive Probation

Removal of Barriers to Presumptive Probation

NRS § 176A.100

AB 236 Section 24

Effective July 1, 2020 – not retroactive

AB 236 expands eligibility for presumptive probation for Category E felony offenders by removing restrictions for those offenders who are on supervision at the time the Category E felony was committed, have previously been revoked from supervision for a felony, or have previously failed to complete an assigned treatment program.



Release and Rehabilitation

Risk and Needs Assessment and Case Planning

Department of Corrections

NRS § 209.341; NRS § 213.107

AB 236 Section 90; Section 94

Effective July 1, 2020 – not retroactive

AB 236 codifies existing practice by requiring the Department of Corrections to administer a risk and needs assessment (as defined in NRS § 213.107) to all offenders to guide institutional programming decisions. AB 236 requires that such an assessment consider an inmate's responsivity factors (as defined in NRS § 213.107). The Department is required to complete a validation study of the risk and needs assessment at least once every 3 years and establish quality assurance procedures to ensure proper and consistent scoring of the assessment.

Definition of Risk and Needs Assessment

AB 236 defines "risk and needs assessment" as a validated, standardized, actuarial tool that identifies risk factors that increase the likelihood of a person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending.

Release and Reentry

Early Termination for Probation and Parole

NRS Chapter 176A.840 – New Section

AB 236 Section 17

Effective July 1, 2020 – not retroactive

Prior law authorized the Division of Parole and Probation to petition the court for early termination at any time during an individual's supervision. AB 236 requires the Division to petition for early termination for any probationer who:

1. Has not violated any conditions of probation during the immediately preceding 12 months;
2. Is current on the repayment of any fees;
3. Has paid restitution in full, or, because of economic hardship that has been verified by the Division of Parole and Probation, is unable to make restitution;
4. Has completed any program of substance use treatment or mental health treatment or a specialty court program mandated by the court; and
5. Has not been convicted of a violent or sexual offense.

Release of Offenders

NRS § 209.511; NRS § 483.290

AB 236 Section 92; Section 126.3

Effective July 1, 2020 – not retroactive

AB 236 requires the Department of Corrections to provide each inmate with the following upon their release from custody:

- A photo identification card (indicating whether or not the Director has verified the inmate's legal name with the Department of Motor Vehicles);
- Clothing;
- Transportation;
- Transitional housing, if appropriate;
- Enrollment application paperwork for Medicaid or Medicare, if the offender is eligible; and
- A 30-day supply of any prescribed medication if the offender was on medication while incarcerated.

AB 236 requires that any photo identification card issued by the Department of Corrections indicate that the Director of the Department of Corrections has verified the legal full name and age of the individual. An inmate who has not been able to provide the documentation necessary to have their legal name verified will still be issued a photo identification card but the photo identification card will indicate that the Director of the Department of Corrections was unable to verify the inmate's legal name.

Reentry Planning

NRS § 213.140

AB 236 Section 100

Effective July 1, 2020 – not retroactive

AB 236 requires that the Department of Corrections begin reentry planning for an offender 6 months prior to the inmate's parole eligibility date, taking into account the needs, limitations, and capabilities of the offender. The reentry plan must include the proposed residence of the offender upon release, the offender's anticipated employment or means of financial support, any treatment and counseling options available to the offender, any job or educational services available to the offender, and information regarding eligibility for and enrollment in Medicaid and/or Medicare.

The Division of Parole and Probation is required to review the reentry plan, verify information contained within the plan, and coordinate with any other state agencies for available services for housing and treatment for the offender. Prior to an offender's release date, the Department of Corrections is required to provide a copy of the reentry plan to the offender.

Sealing of Records

NRS § 179.245

AB 236 Section 37

Effective July 1, 2020 – not retroactive

AB 236 prohibits a person from petitioning the court to seal records relating to a conviction of invasion of the home with a deadly weapon pursuant to NRS § 205.067.

Parole Changes

Medical Release

NRS § 209.3925

AB 236 Section 91

Effective July 1, 2020 – not retroactive

AB 236 expands the medical release provision to include those who are in ill health and expected to die within 18 months, rather than within 12 months as previously required. AB 236 also expands the individuals who can petition the Department of Corrections for medical release to include a prison official or employee, attorney or representative of an offender, a family member of an offender, a medical or mental health professional, or the offender him or herself. The request must be made in writing and articulate the grounds supporting the appropriateness of medical release for the offender.

Geriatric Parole

NRS Chapter 213 – New Section

AB 236 Section 93.3

Effective July 1, 2020 – not retroactive

AB 236 creates a geriatric parole mechanism for an offender who is 65 years of age or older, has not been convicted of a crime of violence, a crime against a child as defined in NRS § 179D.0357, a sexual offense as defined in NRS § 179D.097, vehicular homicide pursuant to NRS § 484C.130, or a violation of NRS § 484C.430, has not been found to be a habitual criminal pursuant to NRS § 207.010, is not serving a sentence of life imprisonment without the possibility of parole and has not been sentenced to death, does not pose a significant or articulable risk to the public, and has served at least a majority of the maximum term of his or her sentence. Consideration for geriatric parole is initiated by the submission of a written application and supporting documentation to the Board—including relevant medical records, plans for parole, program participation records, institutional records, documents concerning eligibility for Medicaid or Medicare and any other relevant documents—from prison officials, an attorney, the inmate, a family member, or medical professional. Once the application is submitted to the Board, the Board shall notify the Department of Corrections of the application and request verification of the prisoner's age and the length of time the prisoner has spent incarcerated. If the prisoner satisfies the criteria, the Department shall place the prisoner on the parole hearing docket.

The Board shall schedule and conduct the geriatric parole hearing of a prisoner in the same general manner in which other prisoners are considered for parole. When determining whether to grant geriatric parole, the Board must consider the prisoner's age, behavior while in custody, potential for violence, illness, and any available alternatives for maintaining geriatric inmates in traditional settings (such as nursing homes, hospitals, or hospice care).

If granted parole, such offenders shall be placed under the supervision of the Division of Parole and Probation. The Board shall set terms and conditions of the prisoner's release.

Eligibility

Any offender serving a sentence of life without parole, a sentence of death, or who has been convicted of a crime of violence, a crime against a child, a sex offense, vehicular homicide, or a DUI offense is not eligible for consideration by the Board of Parole Commissioners. Additionally, any prisoner who was denied geriatric parole within the previous 24 months is not eligible for consideration.

Early Termination of Parole

NRS Chapter 213

AB 236 Section 93.7

Effective July 1, 2020 – not retroactive

AB 236 establishes requirements for the Division of Parole and Probation to petition for early discharge of a person from parole if certain requirements are met. The Division was previously authorized to petition for early termination at any time during the parolee's supervision. AB 236 requires the Division to petition the Parole Board for early termination if the parolee:

- a. Has served at least 12 calendar months on parole and is projected to have 12 months or less of community supervision remaining on any sentence;
- b. Has not violated any condition of parole during the immediately preceding 12 months;
- c. Is current with any fees or fines;
- d. Has paid restitution in full or has been unable to make restitution because of economic hardship that is verified by the Division of Parole and Probation; and,
- e. Has completed any program of substance use treatment, mental health treatment, or a specialty court as mandated by the Parole Board.

Eligibility

Any offender on parole, except those on lifetime supervision, may be granted early termination from parole.

Mandatory Parole

NRS § 213.1215

AB 236 Section 97

Effective July 1, 2020 – not retroactive

If an offender is eligible for mandatory parole as prescribed in NRS § 213.1215, AB 236 authorizes the Board to grant mandatory parole without a Board meeting under certain conditions consistent with the current practice for discretionary parole determinations. These conditions include: no current requests for notification of hearings from a victim or law enforcement, or if the Board has not been notified by the automated victim notification system that a victim of the offender has registered with the system to receive notification of hearings.

Streamlined Parole Decisions

NRS § 213.133

AB 236 Section 99

Effective July 1, 2020 – not retroactive

AB 236 codifies the existing practice of granting parole without a hearing for certain eligible offenders. This includes the cases where neither a victim nor law enforcement has requested a parole hearing. If a Board member reviews a case without a meeting and does not recommend the offender be released on parole, a parole hearing must be held.



Division of Parole and Probation

Division of Parole and Probation

Probation Term Lengths

NRS § 176A.500

AB 236 Section 34

Effective July 1, 2020 – not retroactive

Prior Nevada statute authorized probation sentences of up to 5 years for felony offenses and 3 years for gross misdemeanor offenses. AB 236 establishes new term lengths for probation based on offense class as follows:

- Gross Misdemeanor – 12 months
- Category E Felony – 18 months
- Category C or D Felony – 24 months
- Category B Felony – 36 months
- A violent or sexual offense as defined by NRS § 202.876 or a violation of NRS § 200.508 – 60 months

AB 236 allows for the extension of the period of probation or suspension of sentence for a period of up to 12 months if such an extension is necessary for the defendant to complete participation in a specialty court program.

Violations of Supervision Conditions

NRS Chapter 176A – New Section, NRS § 176A.210, NRS § 176A.400, NRS § 176A.420, NRS § 176A.630, NRS § 213.1519

AB 236 Section 18; Section 25; Section 32; Section 33; Section 35; Section 101

Effective July 1, 2020 – not retroactive

AB 236 requires the Division of Parole and Probation to establish a written system of graduated sanctions for parole and probation officers to use when responding to technical violations. The Division shall create a written system of graduated sanctions for the most common technical violations. The sanctions system is required to take into account elements including: responsivity factors impacting an offender's ability to complete any conditions of supervision; the severity of the current violation; the offender's previous criminal record; the number and severity of any previous violations; and the extent to which graduated sanctions have been imposed for previous violations.

Upon the decision to impose a graduated sanction, AB 236 requires the parole or probation officer to provide the parolee or probationer with notice of the alleged violation and the intended sanction to be imposed. Failure of a parolee or probationer to comply with a sanction may constitute a technical violation. AB 236 prohibits the Division of Parole and Probation from seeking revocation of parole or probation for a technical violation until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, and decides to pursue revocation, the Division must submit a

report to the court or Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the parolee or probationer's behavior in the community.

AB 236 clarifies and imposes limits on conditions imposed upon a probationer or parolee. These include:

- Requiring the probationer or parolee to abide by court-ordered conditions of probation issued by the judge.
- Specifying that any order prohibiting contact or attempts to contact must be established by a no-contact order through the court.
- Changing the condition prohibiting conduct that is harmful to the health, safety, or welfare of the probationer or others from conduct that 'may be' harmful to conduct that the court determines to be harmful.
- Specifying that the condition pertaining to use of any controlled substance or to the failure or refusal to submit to a drug test is to be considered a violation for which a graduated sanction may be imposed by the Division of Parole and Probation.

Lastly, AB 236 requires the Division of Parole and Probation to establish and maintain a program of initial and ongoing training for parole and probation officers on the system of graduated sanctions.

Definitions

Technical Violation

AB 236 defines technical violation as any offense excluding a new felony, a new gross misdemeanor, battery which constitutes domestic violence pursuant to NRS § 200.485, a misdemeanor crime of violence as defined in NRS § 200.408, harassment pursuant to NRS § 200.57, stalking or aggravated stalking pursuant to NRS § 200.575, a violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS § 33.017 to 33.100, the violation of a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS § 200.591, the violation of a temporary or extended order for protection against sexual assault pursuant to NRS § 200.378, and violation of a stay away order involving a natural person who is the victim of a crime for which the supervised person is being supervised. A technical violation also excludes violations of NRS § 484C.110 or NRS § 484C.120. This term does not include termination from a specialty court program.

Absconding

AB 236 defines absconding as a person actively avoiding supervision by making his or her whereabouts unknown to the Division of Parole and Probation for a continuous period of 60 days or more.

Responsivity Factors

AB 236 defines responsivity factors as characteristics of a person that affect his or her ability to respond favorably or unfavorably to any treatment goals.

Revocation Limitations

NRS § 176A.630; NRS § 213.1519

AB 236 Section 35; Section 101

Effective July 1, 2020 – not retroactive

AB 236 places limits on the period of imprisonment that the court can impose for a temporary revocation of probation or parole due to technical violations as follows:

Number Temporary Revocation	Time Period of Detention
First temporary revocation	30 days
Second temporary revocation	90 days
Third temporary revocation	180 days
Fourth and subsequent temporary revocation	Fully revoke and impose imprisonment for remainder of sentence

AB 236 requires any probationer who is arrested and detained for committing a technical violation of the conditions of supervision be brought before the court no later than 15 calendar days after the date of arrest and detention. If the probationer is not brought before the court within 15 calendar days, the probationer must be released from detention and returned to probation status, and the court may subsequently hold a hearing to determine if a technical violation has occurred.

Under AB 236, the following cannot be the sole basis for the revocation of probation:

- Consuming any alcoholic beverage,
- Testing positive on a drug or alcohol test,
- Failing to abide by the requirements of a mental health or substance use treatment program,
- Failing to seek and maintain employment,
- Failing to pay any required fines and fees, and
- Failing to report any changes in residence.

A violation of any or all of these conditions may be included in any violation report; however, AB 236 prohibits them from being the only reason for a report seeking revocation of parole or probation.

Risk and Needs Tool and Case Planning

NRS § 213.1078

AB 236 Section 94 and 95

Effective July 1, 2020 – not retroactive

AB 236 requires the Division of Parole and Probation to administer a risk and needs assessment for each probationer and parolee and to use the results of the assessment to set each individual's level of supervision. The Division shall administer a subsequent assessment for each supervisee on a schedule determined by the risk and needs assessment, and the Division shall document the reason for any change or maintenance in supervision level.

In addition, the Division of Parole and Probation shall use the results of the risk and needs assessment to develop an individualized case plan for each parolee and probationer that addresses the risk factors identified by the assessment, and if applicable, any responsivity factors for each individual. Risk factors are factors that increase the likelihood of a person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending. Upon determining that a condition of probation or the level of supervision for an individual supervisee does not align with the results of the assessment, the supervising officer must seek a modification of the conditions and terms from the court or Board to address the gap.

To ensure the assessment is scored accurately and consistently, AB 236 requires the risk and needs assessment be statistically validated in accordance with the timeline established by the developer of the assessment tool. The Division of Parole and Probation is required to establish quality assurance procedures for proper and consistent scoring of the risk and needs assessment.

Definition of Risk and Needs Assessment

AB 236 defines "risk and needs assessment" as a validated, standardized, actuarial tool that identifies risk factors that increase the likelihood of a person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending.

Domestic Violence Programs

NRS § 439.258

Section 110.5

Effective July 1, 2020 – not retroactive

AB 236 requires existing programs that treat offenders convicted of domestic violence include a module specific to victim safety, be based on evidence-based practices, and that program participants be assessed by a supervisor or provider of treatment.



Additional Provisions

Stakeholder Training

Judicial Training

NRS § 176.135

AB 236 Section 12

Effective July 1, 2020 – not retroactive

AB 236 requires District Court judges to be trained on the use at sentencing of the Pre-Sentence Investigation Report. Such training must include education on behavioral health issues as well as intellectual and developmental disabilities.

Department of Corrections Staff Training

NRS § 209.1315

AB 236 Section 89

Effective July 1, 2020 – not retroactive

AB 236 requires that any training offered by the Department of Corrections for correctional staff include evidence-based practices such as principles of effective intervention, effective case management, core correctional practices, interacting with victims of domestic violence and trauma, and interacting with people with behavioral health needs and physical and intellectual disabilities.

Parole and Probation Officer Training

NRS § 213.1095

AB 236 Section 96

Effective July 1, 2020 – not retroactive

AB 236 requires that any training established by the Division of Parole and Probation include evidence-based practices such as principles of effective intervention, effective case management, effective practices in community supervision, interacting with victims of domestic violence and trauma, and interacting with people with behavioral health needs and physical and intellectual disabilities.

Law Enforcement Officer Training

NRS § 289.510; NRS § 289.650

AB 236 Section 107; Section 108

Effective July 1, 2020 – not retroactive

AB 236 requires the Peace Officer Standards and Training Commission to develop and approve a standard curriculum of certified training program in crisis intervention, which address specialized responses to persons with mental illness and train officers to identify the signs and symptoms of mental illness, to de-escalate situations involving persons who appear to be experiencing a behavioral health crisis, and to connect such persons to treatment if appropriate. Any peace officer who completes any program developed pursuant to AB 236 is required to be issued a certificate of completion. The Peace Officer Standards and Training Commission will regulate the standards developed for voluntary trainings related to behavioral health crisis intervention.

Behavioral Health

Law Enforcement Behavioral Health Policies

NRS Chapter 289 – New Section

AB 236 Section 105

Effective July 1, 2020 – not retroactive

AB 236 requires each law enforcement agency to establish a policy and procedure for interacting with individuals who experience from a behavioral health issue and, subject to the availability of funds, contract with or employ a behavioral health specialist.

Additional Definitions

Definition of Victim

NRS § 217.070

AB 236 Section 102

Effective July 1, 2020 – not retroactive

AB 236 expands the definition of “victim” to include a person who suffers direct or threatened physical, financial, or psychological harm as a result of the commission of a crime; adds family members of a victim who: is a minor, is physically or mentally incompetent, or was killed; and aligns the language in NRS § 217.070 to include “vulnerable persons” as used in NRS §200.5099 and NRS § 200.50995.



Oversight and Reinvestment

AB 236 Oversight

NRS Chapter 176 – New Section

AB 236 Section 5 – Section 8

Effective July 1, 2020 – not retroactive

To monitor implementation progress and compliance with AB 236, the legislation provided the Sentencing Commission with the authority to track and assess outcomes resulting from the enactment of the bill. To ensure the Sentencing Commission has the data needed to make a comprehensive assessment of the outcomes of the policy changes, the Department of Corrections, and the Division of Parole and Probation and Records, Communications, and Compliance Division are required to submit certain data elements to the Sentencing Commission. These data elements are listed in Appendix B of this guide. The Sentencing Commission is required to identify gaps in Nevada’s data tracking capabilities related to the criminal justice system and make recommendations for filling any such gaps.

In addition, AB 236 requires the Sentencing Commission to prepare and submit a report no later than the first day of the second full week of each regular legislative session to the Governor, the Director of the Legislative Counsel Bureau for transmittal to the legislature, and the Chief Justice of the Nevada Supreme Court. Such report will include recommendations for improvements, changes, and budgetary adjustments to the state’s criminal justice system. The report may also present additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.

Another piece of legislation in the 80th Session of the Nevada Legislature, AB80, created a Department of Sentencing Policy to support the work of the Sentencing Commission. AB 80 revised the membership and duties of the Sentencing Commission to include providing recommendations to the Executive Director of the Department of Sentencing Policy concerning the budget for the Department, improvements to the criminal justice system and legislation related to the duties of the Sentencing Commission. AB 80 also moved the Sentencing Commission from the legislative to the executive branch.

Costs Averted by AB 236 Calculation

NRS Chapter 176 – New Section; NRS Chapter 289 – New Chapter

AB 236 Section 7

Effective July 1, 2020 – not retroactive

AB 236 requires the Sentencing Commission to develop a formula to calculate the costs avoided by Nevada for each fiscal year because of the provisions of the bill. This formula will include a comparison of the annual projection of people in a Department of Corrections facility as reported by the Office of Finance pursuant to NRS 176.0129 for calendar year 2018 and the actual number of people in a Department of Corrections facility during each year moving forward.

By December 1 of each year, the Sentencing Commission is required to use the formula to calculate the costs avoided by Nevada as a result of AB 236 and submit a statement of the amount of the costs avoided to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

AB 236 requires the Sentencing Commission to prepare a report for the Governor and the Director of the Legislative Counsel Bureau for the next regular session by August 1 of every even-numbered year. This report shall include the projected amount of costs avoided by the State for the next biennium and recommendations for the reinvestment of those costs to support programs and services that address the behavioral health needs of justice involved individuals and reduce recidivism. In the report, the Commission shall prioritize providing financial support to:

- The Department of Corrections for programs for reentry into the community, programs for vocational training, employment, education and transitional work;
- The Division of Parole and Probation for services for offenders reentering the community, the supervision of probations and parolees, and programs of treatment for probationers and parolees that are proven by scientific research to reduce recidivism;
- The Behavioral Health Field Response Grant Program established by the act that provides qualifying law enforcement agencies funding to partner with a behavioral health professional to address the growing number of individuals entering the system with a behavioral health need;
- The Housing Division of the Department of Business and Industry to create or provide transitional housing for probationers and parolees and offenders reentering the community; and
- The Nevada Local Justice Reinvestment Coordinating Council for the purpose of making grants to counties for programs and treatment that reduce recidivism of persons involved in the criminal justice system.

Reinvestment of Costs Averted by AB 236

NRS Chapter 289 – New Section

AB 236 Section 7, 104, and 105

Effective July 1, 2020 – not retroactive

Behavioral Health Field Response Grant Program

AB 236 requires the Commission on Peace Officer Standards and Training (POST) to develop and implement a Behavioral Health Field Response Grant Program that provides law enforcement with funding to partner with behavioral health professionals to safely respond to crises, including, without limitation, by telephone or video, involving persons with behavioral health issues. The funding for this grant program is subject to availability of resources as a result of averted costs. A portion of the funds appropriated may be used to develop data management capability to support the program.

A local law enforcement agency can become eligible to submit a grant application to POST for this program by incorporating behavioral health professionals into its behavioral health field response program and two or more local law enforcement agencies may submit a joint grant application. Any proposal submitted by law enforcement must provide a plan for improving behavioral health field response and diversion from incarceration through modifying or expanding law enforcement practices in partnership with behavioral health professionals, and if selected, must provide for at least one behavioral health professional who will perform professional services under its plan. A grant recipient is also required to develop and provide or arrange joint training necessary for both law enforcement and behavioral health professionals.

POST shall appoint a peer review panel, in consultation with behavioral health organizations and the Department of Health and Human Services, to review the applications submitted by local law enforcement agencies and select grant recipients. To the extent possible, AB 236 requires that at least one grant recipient must be from a rural county. POST shall distribute grant funds to the selected recipient, making every effort to fund at least three grants each fiscal year. POST is required to consult and coordinate with the Department of Health and Human Services to study and evaluate the grant program, to develop requirements for

participating behavioral health professionals, and to develop and incorporate telephone or dispatch protocols to assist with law enforcement and emergency medical responses involving behavioral health situations. POST is required to submit a report to the Governor, the Chair of the Senate and Assembly Standing Committees on Judiciary concerning the programs.

Justice Reinvestment Local Coordinating Council

NRS Chapter 176 – New Section

AB 236 Section 8

Effective July 1, 2020 – not retroactive

AB 236 creates the Nevada Local Justice Reinvestment Coordinating Council, consisting of one member from each county in Nevada whose population is less than 100,000 and two members from each county in Nevada whose population is 100,000 or more, appointed by the governing body of the applicable county. The Chair of the Sentencing Commission shall appoint the Chair of the Council from among the members of the Council.

The Justice Reinvestment Local Coordinating Council is statutorily tasked with:

- Advising the Sentencing Commission on matters related to any legislation, regulations, rules, budgetary changes, and all other actions needed to implement the provisions of AB 236 as they relate to local governments;
- Identifying county-level programming and treatment needs for persons involved in the criminal justice system for the purpose of reducing recidivism;
- Making recommendations to the Sentencing Commission about grants to local governments and nonprofit organizations from the State General Fund;
- Overseeing the implementation of local grants;
- Creating performance measures to assess the effectiveness of the grants; and
- Identifying opportunities for collaboration with the Department of Health and Human Services at the state and county level for treatment services and funding.



Appendix

A. Theft Threshold Offenses

The following statutes are affected by the changes made to the theft threshold:

- NRS § 205.0835 (Theft: penalties);
- NRS § 205.130 (Issuance of check or draft without sufficient money or credit: penalties);
- NRS § 205.134 (Issuance of check or draft without sufficient money or credit: posting notices);
- NRS § 205.2175 (Definitions);
- NRS § 205.2195 (“Property” defined)
- NRS § 205.220 (Grand larceny: definition);
- NRS § 205.222 (Grand larceny: penalties);
- NRS § 205.228 (Grand larceny of motor vehicle; penalty);
- NRS § 205.240 (Petit larceny: penalty);
- NRS § 205.251 (Determination of value of property involved in larceny offense);
- NRS § 205.267 (Penalty for theft of scrap metal or utility property);
- NRS § 205.270 (Penalty for taking property from person of another under circumstances not amounting to robbery; limitation on granting of probation or suspension of sentence);
- NRS § 205.2707 (Penalty for theft of money or property of value of \$650 or more from vending machines; determination of value of property taken includes cost to repair any damage to vending machine);
- NRS § 205.273 (Offense involving stolen vehicle: Definition; penalty; restitution; determination of value of vehicle);
- NRS § 205.275 (Offense involving stolen property: Definition; penalty; restitution; prima facie evidence; determination of value of property);
- NRS §205.380 (Obtaining money, property, rent or labor by false pretenses);
- NRS § 205.365 (Fraudulently selling real estate twice);
- NRS § 205.370 (Swindling; credit by false representations);
- NRS § 205.377 (Multiple transactions involving fraud or deceit in course of enterprise or occupation; penalty);
- NRS § 205.415 (Collecting for benefit without authority);
- NRS § 205.445 (Defrauding proprietor of hotel, inn, restaurant, motel or similar establishment);
- NRS § 205.455 (Personating another same as stealing);
- NRS § 205.520 (Issue of document of title for goods not received);
- NRS § 205.540 (Issuance of duplicate or additional negotiable document of title not so marked);
- NRS § 205.570 (Obtaining or negotiating document of title for goods with intent to defraud);
- NRS § 205.580 (Inducing bailee to issue negotiable document of title when goods have not been received);
- NRS § 205.590 (Negotiation of document of title when goods are not in bailee's possession);
- NRS § 205.605 (Using scanning device or reencoder to defraud);

- NRS § 205.606 (Possession of scanning device or reencoder for unlawful purpose);
- NRS § 205.940 (Conversion of rented or leased personal property; penalty; defenses to civil action);
- NRS § 205.950 (Unlawful receipt of fee, salary, deposit or money to obtain loan for another; penalties); and
- NRS § 205.980 (Determination of value of loss from crime; notice to victim; order of restitution deemed judgment to collect damages).

B. Data Collection

The Sentencing Commission is charged with tracking the following data from the Department of Corrections:

- Admissions
 - Total number of persons admitted to prison by:
 - Type of offense
 - Type of admission
 - Felony category
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity
 - Sexual orientation
 - Age
 - If measured upon intake, risk score
 - The average minimum and maximum sentence term by:
 - Type of offense
 - Type of admission
 - Felony category
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity
 - Sexual orientation
 - Age
 - Mental health status
 - If measured upon intake, risk score
 - The number of persons who received a clinical assessment identifying a mental health or substance use disorder upon intake.
- Parole and release from prison
 - The average length of stay in prison for each type of release by:
 - Type of offense
 - Felony category
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity
 - Sexual orientation
 - Age

- Mental health status
 - If measured upon intake, risk score
- The total number of persons released from prison each year by:
 - Type of release
 - Type of admission
 - Felony category
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity
 - Sexual orientation
 - Age
 - Mental health status
 - If measured upon intake, risk score
- The recidivism rate of persons released from prison by type of release
- The total number of persons released from prison each year who return to prison within 36 months by:
 - Type of admission
 - Type of release
 - Type of return to prison, including, without limitation, whether such a subsequent prison admission was the result of a new felony conviction or a revocation of parole due to a technical violation
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity
 - Sexual orientation
 - Age
 - Mental health status
 - If measured upon intake, risk score
- The number of persons in prison:
 - The total number of persons held in prison on December 31 of each year (not including those released from prison but residing in a parole housing unit) by:
 - Type of offense
 - Type of admission
 - Felony category
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity

- Sexual orientation
- Age
- Mental health status
- If measured upon intake, risk score
- The total number of persons held in prison on December 31 of each year who have been granted parole but remain in custody and the reason therefor
- The total number of persons held in prison on December 31 of each year who are serving a life sentence with or without the possibility of parole or who have been sentenced to death
- The total number of persons as of December 31 of each year who have started a treatment program while in prison, have completed a treatment program while in prison, and are awaiting a treatment program while in prison by:
 - Type of treatment program
 - Type of offense

The Sentencing Commission is charged with tracking the following data from the Division of Parole and Probation:

- With respect to the number of persons on probation or parole:
 - The total number of supervision intakes by:
 - Type of offense
 - Felony category
 - Prior criminal history
 - Gender identity or expression
 - Race
 - Ethnicity
 - Sexual orientation
 - Age
 - Mental health status
 - If measured upon intake, risk score
 - The average term of probation imposed for persons on probation by type of offense
 - The average time served by persons on probation or parole by:
 - Type of discharge
 - Felony category
 - Type of offense
 - The average time credited to a person's term of probation or parole as a result of successful compliance with supervision
 - The total number of supervision discharged by type of discharge, including, without limitation, honorable discharges and dishonorable discharges, and cases resulting in a return to prison
 - The recidivism rate of persons discharged from supervision by type of discharge, according to the Division's internal definition of recidivism
 - The number of persons on probation or parole identified as having a mental health issue or substance use disorder
 - The total number of persons on probation or parole who are located within Nevada on December 31 of each year, not including those under the custody of the Department of Corrections

- With respect to persons on probation or parole who violate a condition of supervision or commit a new offense:
 - The total number of revocations and the reasons therefor, including whether the revocation was the result of a mental health issue or substance use disorder
 - The average amount of time credited to a person’s suspended sentence or the remainder of the person’s sentence from time spent on supervision
 - The total number of persons receiving administrative or jail sanctions, by:
 - Type of offense
 - Felony category
 - The median number of administrative sanctions issued by the Division to persons on supervision, by:
 - Type of offense
 - Felony category

The Sentencing Commission is charged with tracking the following data related to the enactment of AB 236:

- With respect to savings and reinvestment:
 - The total amount of annual savings resulting from the enactment of any legislation relating to the criminal justice system
 - The total annual costs avoided by this State because of the enactment of AB 236
 - The entities that received reinvestment funds, the total amount directed to each such entity and a description of how the funds were used

The Sentencing Commission is charged with tracking and assessing trends observed after the enactment of AB 236, including the following data, which the Central Repository for Nevada Records of Criminal History shall collect and report to the Sentencing Commission as reported to the Federal Bureau of Investigation:

- The uniform crime rates for Nevada and each county in Nevada by:
 - Index crimes
 - Types of crime
- The percentage changes in uniform crime rates for Nevada and each county in Nevada over time by:
 - Index crimes
 - Type of crime