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**STATE OF NEVADA  
DEPARTMENT OF SENTENCING POLICY**

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**NEVADA SENTENCING COMMISSION**

**MINUTES-APPROVED**

**Date and Time:** October 28, 2020, 9 A.M.

**Location:** VIRTUAL

**MEMBERS PRESENT**

John Arrascada  
Christine Jones Brady  
Chuck Callaway – Vice Chair  
Colonel Anne Carpenter  
Director Charles Daniels  
Chairman Christopher DeRicco  
Judge Scott Freeman  
Justice James Hardesty – Chair  
Keith Logan  
Russell Marsh  
John McCormick  
Kimberly Mull  
Dr. Elizabeth Neighbors  
Assemblywoman Rochelle Nguyen

**MEMBERS EXCUSED**

Jon Ponder  
Judge Michael Villani  
Assemblyman John Hambrick  
Senator Keith Pickard  
Senator Nicole Cannizzaro  
Darin Imlay

**STAFF**

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

## 1. Call to Order / Roll Call

**Chair James Hardesty:** Good Morning. It's the ninth meeting of the 2019-2020 meeting cycle. Thank you, Executive Director and Sherry, I would like to thank them for a good job. Thank them for what they're doing with the technology, they're magicians. It is wonderful what they're doing. I'd like to remind the Commission members to please mute when not speaking. Unmute when you begin to speak and state your name for identification.

ROLL CALL – (For the record, Executive Director Gonzalez announces she sees Charles Daniels, Director Nevada Department of Corrections. They are having audio difficulties.)

**Chair Hardesty:** As a matter of personal privilege, I would like to, before we get into public comment, I'd like to ask all of the Commission members to unmute themselves, and join me in congratulating Colonel Anne Carpenter, for an extraordinary (inaudible). This may feel a little bit like 'The Voice,' but we want to all thank you. We're so proud of your service to the State of Nevada and to your leadership of both Parole and Probation and now your new venture. Congratulations. We really appreciate your service to the State of Nevada. You continue to break glass ceilings and impress everyone. Best wishes to you, and as I understand it from the Governor's Office, you'll continue to serve on this Commission and we're very fortunate to have your continued help and input.

**Colonel Anne Carpenter:** Thank you, Sir. I appreciate it.

## 2. Public Comment

**Chair Hardesty:** This is our first of two public comment periods for this meeting. We're going to handle public comment differently, along the lines of what other agencies have been able to do, and commissions and committees, especially those at the Legislature. While we have had some letters submitted, we're going to handle public comment by telephone. Because of time constraints, public comment will be limited to not more than two minutes. Any member of the public who testifies and exceeds the minute time limit can also submit public testimony to the Department of Sentencing Policy. I'd like to turn this over to Ms. Glick and ask her to announce the process for entertaining public comment by telephone. I believe the record shows we have received some public comment. Each of those were distributed to the Commission members with materials from the Commission.

**Sherry Glick:** Thank you Justice Hardesty. Members of the public who wish to testify by phone, please call (669) 900-6833. When prompted, enter 99414086909 and pound for the meeting ID. If would like to comment at this time, press \* (star) 9 (nine), to raise your hand. When it is your turn to speak, you will hear a message that will instruct you to enable you to unmute yourself by pressing \* (star) 6 (six). I will also state the last three numbers of your phone number, to let you know it is your turn to speak. Please state and spell your name slowly for the record. I will wait one (1) minute for the callers to join the meeting and raise their hands.

Caller with the last three digits of '037' please state slowly and spell your name for the record. You have two (2) minutes; you may begin now.

**Tonja Brown:** Advocates for the Inmates and Innocent. There's been a lot of concerns about AB 236. I have received letters from some inmates who have some concerns about it because it personally

affects them. We believe the AB 236 should have been applied retroactively. I recall over the years that testimony was given regarding those certain life sentences and I was assured it didn't deal with anybody that was in for non-violent offenses. Some of the testimony that came out was, we don't have people serving a life sentence for stealing two candy bars. While that might be true, but we do have an inmate serving a life sentence for stealing four (4) Christmas cards, possession of marijuana, that is now legal, if it's under an ounce. He says he's serving a life without (inaudible) from an '83 conviction for stealing tools that were \$125, and possession of a stolen motor vehicle under \$2,500. He stole two (2) bottles of alcohol, he had a drug and alcohol problem. Now a lot of these offenders do have drug and alcohol offenses. They've committed crimes to provide for their addictions. Now, that needs to be changed, life without violent offenses is wrong, and please make this retroactive. Thank you.

**Chair Hardesty:** Thank you, Ms. Brown for your input. Anyone else wishing to provide public comment to the Commission today?

**Ms. Glick:** Chair Hardesty, there are no more callers.

**Chair Hardesty:** Okay, that concludes our first session of public comment. Director Daniels, I can see your smiling face. Can you hear us, yet?

**Ms. Gonzalez:** We're testing something (technical). We're inviting who we believe is Director Daniels to unmute. Can you hear us?

**Director Charles Daniels:** Yes, we can hear you.

**Chair Hardesty:** Okay. Well we can see your smiling face Director Daniels. It's good to have you with us now as part of the meeting. Thanks.

**Director Daniels:** Thank you. I appreciate it.

### **3. Approval of Minutes from the July 29, 2020 meeting**

**Chair Hardesty:** The meeting minutes of July 29 were circulated to everyone. Are there any edits, comments or corrections from any Commission member? Is there a motion to approve?

JOHN ARRASCADA MOVED TO APPROVE THE MINUTES OF THE JULY 29, 2020 MEETING.

ASSEMBLYWOMAN ROCHELLE NGUYEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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

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

**Chair Hardesty:** I can tell you I continue to engage with the Director weekly, even on Sundays. Poor Director Gonzalez. She has just been tremendous and the amount of work she and Ms. Glick have been doing is impressive. We are finally, after more than a year, getting to the point I think we're getting the Department fully staffed and lots of other good things going on. Director, if you would share with the commission, your report.

**Executive Director Victoria Gonzalez:** Thank you, Chair. It's a pleasure to be here. It's so great to see everybody. I know I'm able to be in contact with you in between meetings by email and I really appreciate when you need something you don't hesitate to reach out. We're always available. I feel the same way. And with everyone on the Commission I appreciate the support you provide the department. One of our values is promoting collaboration and each member of this Commission delivers in that way. And we appreciate that. Nobody can do any of this alone. We really appreciate it. I have several presentations prepared for this Commission today. I wanted to vary the deliverables I've provided for you and create something we can rely on every meeting.

What you have in your meeting materials is a 14-page document that I have titled Report from the Executive Director. (This is a summary and bullet points and highlights of our activities.) We hope to have something like this every meeting so you can get used to seeing and checking in to see what we have. That way we don't all suffer death by power point because it's very tempting and that's what I would have started with. Just in case you are scrolling through your PDF or whatever you printed out, the document I have (displays) looks like this. The color boxes on the front that is the first page. I'm going to walk through this and give you some additional information along with that. On page one, you can see the first of six of the core functions I have informed this Commission I have identified for this Department. These core functions help us organize and prioritize our activities. Each week I provide an update to the Chair and I organize our summary exactly by these core functions, so I wanted to provide a similar update to this Commission.

As you can see the first core function is administrative. The updates from our administrative core function here, is that we continue to provide these weekly reports to the Chair about our activities. I also Cc the staff, which right now is myself and Ms. Glick, but I intend to Cc the rest of our staff so we can all recognize our progress and identify where we're at and what we're communicating to the commission. We've continued to add activities to establish the infrastructures of our Department. As you all know we're a brand-new Department. There's a lot of things we need to get up and running that we realize other agencies may take for granted because they've been around for a while. We're learning about things we just need to function, but it's been an adventure and but we're really enjoying it.

One of those things we did recently is something called submitting our report on internal controls. We worked with other agencies to help complete that for our Department, our first one. We were happy to get another thing done for our Department. We have been very busy recruiting staff. I am very happy to report that on Nov. 16<sup>th</sup>, we hope to be fully staffed with our four members. I am excited to introduce them. I will do so at the December meeting, which is on December 9<sup>th</sup>. I don't want to share their names at this point in case they're still in between making their transition from their current employment to our department. But I will tell you these candidates thoroughly expressed their enthusiasm for our Department specifically and the mission of what this Commission is doing. And we could tell right away

that they were very invested in what all of us are working on and we're very excited to bring on their expertise. They are going to be amazing assets to our team.

Moving on to the next core function is our budget. We have completed the first step of our budget building process. We submitted our budget to the Governor's Finance Office on September 1<sup>st</sup>. We are currently working on answering questions from the GFO and the Legislative Counsel Bureau, their fiscal division. Right now, it looks like they just need supporting documentation from us so it's nothing too significant from us as far as those questions are concerned. At the last meeting, this commission approved our request for a subaward. So what we also learned was how to complete a work program and how to get that submitted to the Interim Finance Committee so we could use the subaward to hire and that's what allowed us to hire the staff attorney. That work program was approved on October 22<sup>nd</sup> at the IFC.

Moving on to the Commission Core Function. For the last couple of months, we've been working on the July 29 minutes as far as this core function is concerned. At first, we were paying someone to transcribe the minutes for us. That is beyond our budget capabilities, so we are handling transcribing the minutes internally. We are establishing those procedures and we have what we think is an effective procedure in place to transcribe those minutes ourselves, review them and get them back to this Commission and post it in compliance with the Open Meeting Law.

Additionally, what I have to report in terms of the Commission, is we currently have three (3) vacancies. We have the inmate advocate position is vacant, which is appointed by the Governor. We had a Governor's appointment that was previously held by Dr. Salisbury. Dr. Salisbury moved out of Nevada as many of you know, so her residency made her ineligible to serve on the Commission any further. Additionally, one of the members of the Commission is the director of Department of Employment, Training and Rehabilitation sits on the Commission. As we all know, there's been a lot of activity there, so we're going to work on getting in contact with the acting director or whoever they have in place and keep them updated on their position with the Commission and keep them as much in the loop as we can and hope to see them at our next meeting.

The Governor's Office is aware of the two vacancies I mentioned, the inmate advocate and the position vacated by Dr. Salisbury. They have assured us they are in the process of getting those filled for us. That means we have a 24-member Commission and we're down to 21 members right now with those three vacancies. I want to let you know we're on top of that and we'll keep you updated on as we have more information about those appointments.

The next core function I want to provide some information about is the AB 236 core function of the Department. I wanted to let this Commission know that I made a presentation to the Nevada Association of Counties last week, regarding the Nevada Local Justice Reinvestment Coordinating Council, which is the council made up of members from each county. The purpose of that council is to provide feedback to this Commission regarding the implementation of AB 236 at the local level. We have come up with a timeline and are going to task the staff attorney for providing the support to that coordinating council, of course with my assistance.

Now that we have that position in place, I put together a schedule for them. We've asked the counties to submit an appointment to us by July 1<sup>st</sup>, 2021. Then the Chair of this Commission would appoint the

Chair of the Council at the August meeting of this Commission and the Council could have their first meeting in September. That means the appointment cycle of the Council would be on track with the appointment cycle of this Commission. So, we could be rotating chairs and members for that Council at the same time that we are resetting the cycle for this Commission. The only question I got from that meeting was regarding qualifications for who we're looking for on that Council and I told them individuals who have experience with the criminal justice system, specifically behavioral health issues with offenders at the local level because what we're looking for is input for programs, and possible data we can collect to bring back to this Commission. I'll address that when I talk about possible changes to AB 236.

The next thing from AB 236, is we've been working on the Performance and Outcome Measures that are required. We are actively meeting with agencies, which I will provide more detail about that in Agenda Item No. 5. That's been keeping us very busy.

Moving on to the reports core function, these are all the reports and deliverables required by this Commission. The most recent deliverable we submitted is the Projected Amount of Costs Avoided, which this Commission approved at the July 29 meeting. I'm going to talk about the statement of costs avoided in Agenda Item 8, which is our next deliverable. After that, this Commission has two more comprehensive reports that are due; one in January and one in February.

The last core function on this page is the legislative core function. This is where we track our activities and anything we are doing with the Legislature. During the interim, that means tracking the activities of different interim committees. Specifically, we have been tracking the activities of the Advisory Commission on the Administration of Justice. We make sure to watch those meetings, and I'll talk about that more too, when we talk about our possible recommendations for AB 236. That's an important partnership. AB 236 came out of ACAJ and this Commission did in 2017 and obviously, many of you serve on that Commission as well. (Even if you didn't serve, you're very well aware of that Commission as you're aware of the criminal justice system activities.) That's an important partnership that we keep track of. Additionally, the next thing on our list for the Legislative Core Function will be BDRs (Bill Draft Requests). We need to develop a system on how we're going to track those and how legislation moves its way through the Legislature. This is important because there could be a policy impact to this Commission and to our Department. There could be fiscal impacts. I think it would be appropriate for this Commission to be available to provide input to the Legislature during the legislative session as some of these issues come up.

Moving on to page two (2) of my report, this is a summary of the outreach care function, which is all those things we do to communicate with stakeholders and the public. At the last meeting I presented some data about some of the contact we received from the public. I wanted to present it here in a hard copy form so you could see the numbers. We are still working on our procedures. We think we've got something down to keep track of the phone calls, emails and the letters we receive. This will be the last time we present this data up to this point. At future meetings I will only present the communication we receive in between meetings. If this Commission requests, I can provide a summary of that. I think it would also be helpful to provide a summary of this outreach data in our comprehensive report so the report we send to the Legislature and the Governor they can see the activity we have going on with the public.

As you can see, I've organized some data, specifically where they come from. On the left hand (of page) I've identified letters based on if they came from the public or if they came from inmates in certain institutions. You can see we have a lot coming from Lovelock, I haven't analyzed the letters coming out of there, but I think it's a matter of communication and I can tell in the letters they make comments about who they've heard about us from, I think it depends on where the communication's at. I wouldn't say there's anything specific about any of these institutions, it's just a matter of how word gets around and who they reach out to.

You can see on the right side is a summary of the different types of letters. I very generally put the letters into subjects. We can always provide more detail if this Commission requests. I wanted to be able to provide a very surface level of idea of what letters we are receiving. I do want to make a correction; it says NRS 193.168, that should be NRS 193.165. That is the enhancement for deadly weapon. Those are the number of letters specifically received about that issue. By each of these working down through those, I put AB 236 being retroactive, we received a number of letters either expressing support for that or expressing they believe, these are from inmates, if AB 236 is made retroactive would benefit them in some way or they've asked if it would benefit them.

We've received individual requests, and by that, I mean someone has either written to us to review their case or review sentencing credits for them. Maybe they're seeking program at their institution or some other individual request like that. As I've made it clear to them and on our website, we do not provide any sort of legal representation, so I never comment on any of these issues. I just send them a letter responding and acknowledging their letter. Additionally, I very generally just put criminal justice reform because we receive various recommendations for things that could be changed from their opinion. It could be as much as abolishing light sentences, addressing certain issues with juvenile sentencing. I did break out the habitual criminal because that does seem to be an issue a lot of individuals write about.

That's just a summary of what we've received. The form letter I mentioned in our last meeting, I've identified as Form Letter No. 1. I can share that with this Commission, but it was a form letter that mostly came out from the inmates at the Arizona institution. It was copied, shared, and they just put their name on it. And it was very general as far as proposing various criminal justice reforms. At the bottom I showed the trends, you can see during the late spring and summer we had the activity level of our letters was very high. It's really dropped off. But I think it will be important to track this as we move forward, especially as the Legislative session coming up. We can see that when the public learned the department came into existence they were trying to figure out what we are and what services we could provide and that was a way for them to find out was by writing to us.

As I was directed by this Commission at the last meeting, we are looking to provide resources for the public when they're not quite sure where to go. As they continue to figure out what they need from us I will continue to keep this Commission updated and keep track of what the trend of letters looks like. Moving on to Page 3, we receive many requests from individuals who have asked specifically for us to share their names. Sometimes they ask to share their letters, specifically. We have only recently established a procedure for how to manage these requests. In the future when an individual reaches out to our department, we'll specifically ask them if they want us to share their name with this Commission and what they would like us to share. For the purposes of delivering on this request from

these members of the public, I merely put together a list of individuals who specifically asked us to share their name. If there's anybody here that this Commission would like to learn more about, I'd be happy to share those letters. I also want to be careful about the information in the letters and that's why I didn't copy the letters because we haven't established exactly what with the individual exactly what they want us to share. In the future we will. This is also to reassure the public they've been heard by us and been heard by you. I want to convey that is very transparent and we're passing the information on to you.

Moving on to pages 4-14, is regarding an individual named Bruce Birch. He has written to the Department several times concerning issues you can see are very important to him. You can see on his letter on page 14, he requested minutes from the July meeting because he thought I presented his letters to the Commission. The letter I sent to him told him, I presented general information about the types of letters I've received, is what I presented. In order to satisfy his request, I assured him I will show all his letters to this Commission, which is why these are here right now. So, I can assure him if he does make a request for minutes, I can reassure him that I've shared his name and information with this Commission. I wanted to reassure that. I also want to note that Tonja Brown reached out to me back in the spring because she shared the first letter I ... when Mr. Birch first wrote the department, I wrote a letter thanking him for the letter. (I thanked him for sharing your concerns about AB 236 and I told him I would share his information with the Commission), generally, about letters I received. She shared that letter as a public comment at the June 11<sup>th</sup> meeting of the ACAJ.

I just wanted to reassure the Commission, what our Department is doing in terms of providing this information as public comment in various forms, that we are aware that his, maybe not through him, his concerns have been shared in other public forms. That's the only purpose these letters are here is to reassure this information has been shared with this Commission and that you have heard from this individual. Like I said we're working on our procedures to ensure that when individuals contact the Department in the future, we can clarify exactly what it is they would like us to share. Now that I put this report together, this Commission can see what it looks like and the public can see too, what the information looks like when I share it with the Commission. With that I am done with my report and I'd be happy to answer any questions the Commission members may have at this time or any comments.

**Chair Hardesty:** Any questions for the Executive Director on her report?

## **5. Report on Collection of Performance Measures Required by Assembly Bill 236 (2019)**

**Chair Hardesty:** As you know the Commission is tasked with tracking and assessing outcomes resulting from the enactment of AB 236. Director Gonzalez has provided various updates to the Commission to collect performance measures and I've asked her to provide another update on the status of the collection of these performance measures that she's undertaken, since our last meeting.

**Director Gonzalez:** Thank you, Chair. From what I can tell everyone can see my screen. If you can't, please let me know. I'm checking the chat and that's a good way to let us know, too, which I appreciate. As the Chair mentioned, I'm here to talk about performance measures this Commission is required to track and assess as the result of enacting AB 236. I have listed all that is required of this Commission in terms of tracking and assessment. It's not just collecting data, it's each of these things. You can see it's collecting data from three agencies; tracking and assessing outcomes from AB 236, which also



requires this Commission to look at avoided costs and savings reinvested, which we have talked about previously and will talk about again later in this meeting.

This Commission is also tasked to identify gaps in criminal justice information sharing and then make recommendations, specific to tracking the outcomes from enacting AB 236, submitting a report to the Legislature. For the purposes of this presentation I'm only going to talk about the items that are bolded, the collection pieces, from the agencies as far as the data we are supposed to be looking at. I'm just going to be talking about the collection aspect of that, not about the assessing outcome aspect.

As you can see on slide 3, I have created what I call an assessment to measure the performance and outcomes of measuring the performance and outcomes. What I mean by that is, we need to figure out what do we need to do, how do we do it and how do we know if we're doing it right. The collecting and aggregating of data and using that data of determining the effectiveness of AB 236 is no small task. As we can see from the statutory requirements. I created an assessment to help us get started. This is what I did when I was teaching, that is where I thought of this. My seventh-grade students would show up in the classroom, when the school year was over, I knew I needed them to be ready to go to the 8<sup>th</sup> grade. But I don't just start teaching the first day of school and start teaching them everything they need to know by the time the school year ends. What I do first is I assess. I assess every single one of the students who walks into my classroom. I needed to know where do I want them to be at the end of the year, where do they need to be in two, three or four years. Where are they now. Are they below grade level, at grade level, above grade level. How do I get them where they need to be. This is how I see it as similar. We know we need to collect data. We know we need to assess and track the outcomes of AB 236. But we don't just jump in and start collecting data and hope that it all works out. We need to figure out where do we want to be with our data collection. Where are we now with collecting data. And how do we get there based on where we are.

As you can see, here are the steps for what I have designed. We assess, we assess, we assess. First, we figure out where we want to go. Then we figure out, where are we. Then we make a plan on how to get where we want to go. Then you can see the ongoing step of assess and reassess. This is how we determine how we're doing. Then we're not relying on other people to tell us, are we doing a good job or not. We are reflecting ourselves. Today's presentation is only going to be Step 1 and the beginning of Step 2. I know we're really eager to look at data, but this assessment is what I've designed to help us make sure we're doing it properly. I wanted to make sure this Commission knows this is all we're going to see today, is Step 1 of where we want to go, and just the beginning of Step 2, where are we. On Slide 4, here's Step 1. This is where we want to go. This is the first part, the statute, as we know was codified from AB 236. This is from NRS 176.01343. We can look at this statute and see all the data metrics we need to collect. We can also see who is responsible for providing the data that is required. However, I think it's important to look at more than just the statute. I think it's important to determine what values are important regarding the collection of data. For this I think it's important we implement these values, that we implement these values with the data we collect. If we do so, the values of reliability, consistency, and sustainability, we're going to set ourselves up for success and effectively track and assess outcomes from AB 236.

This is the big one now we're in. Step 2 is huge, is where are we. We need to figure out what do we have, what do we not have, and how does that compare with where we want to go. This needs to be

done with each agency, including our own agency the Department of Sentencing Policy. I want to let this Commission know Step 2 started back in February of this year. Beginning in February, with the technical assistance of the Crime and Justice Institute, we began meeting monthly with each of the agencies. The Nevada Department of Corrections, the Division of Parole and Probation and the Records and Communications and Compliance Division. We began by reading the statutory requirements together. Each of us would look at the requirements, we'd get together, we walk through, because we needed to agree what the statute is asking us to do. Not just have agencies collect data, submit it to us and we assess. Remember the statute is Step 1, where do we want to go. We all have to see that we see the same, where, even though it's there in statute, we have to make sure we understand it in the same way. We do this by communicating regularly, which I think is important for us to be successful. Assessing where we are also requires us to look at actual data. The purpose of the first collection of data is not to track and assess the outcome of AB 236. Remember we are just assessing right now, where are we. This means we want to look at what data do we have, and we need to look at creating a baseline for methodologies for how the data's collected, and what procedures are already in for collecting and assessing data. Again, that means doing this at each agency level including our own agency.

The plan for the first round of data is collection, is what you can see. The next step will be to make a plan, if needed. Here are some of our findings. One of the things I want to make clear is we set some goals for Step 2, because we knew we wanted to create this baseline. We thought we'll set some pretty high goals and see what we could accomplish. First, let's see if we can get data from the previous five (5) years, if that's possible. What I asked each agency to do was provide data that would be all the way through July 1, 2020, which is when AB 236 went into effect. Because if we can, we'd like to create a baseline of what things looked like before AB 236 went into effect. After we had those parameters in place, I asked each agency to provide their first round of data to our department by October 1<sup>st</sup>. That was the first step we set. And that step was accomplished. Each agency, with our regular communication, submitted data to our department by Oct. 1<sup>st</sup>. I will share what we learned so far from our assessment of that.

One of the first collection we need to do is prison admissions. According to the statute, the agency that will provide this information is NDOC. They are responsible for providing one hundred (100) metrics. They provided some data for us. We are still in the process of assessing it. With the technical assistance of CJI, we are going to determine how many of those metrics were actually able to be purported. We're also going to assess the methodologies not only with NDOC but with our own department. Then the plan is to continue meeting with the agency at least once maybe twice before the December meeting. At that meeting I will have very detailed information about not only how many of the metrics NDOC was able to provide, I will have actual examples of what those metrics look like. Then we will have some assessment of methodologies going on at NDOC and the Department of Sentencing Policy and how we need to work together. Similarly, I have a summary for the additional reporting metrics.

Slide 7 is the performance measure of persons on parole and probation. The reporting agency responsible for this is Division of Parole and Probation. They provide this data for the Commission but that will be directly to our Department of Sentencing Policy. The Division of P&P is responsible for providing seventy (70) metrics. Next steps are to meet, we're going to go over the data, we're going to go over methodologies. And at the next meeting I will have concrete numbers of exactly how many

metrics were collected, what our next steps will be and what will be required of each of the respective agencies. The last performance measure is crime rates. The agency responsible for this pursuant to the statute is the Central Repository. For our purposes, this is the Records, Communications and Compliance Division. They are the agency that will provide this data. As you can see, they are responsible for eight (8) metrics. Our next steps will be to meet with the team over there, ask some follow up questions regarding the data and methodologies and then determine what we will be responsible for on our end. We will collaborate with them on that.

This is a visual to compare what each agency is responsible for. What I intend for the December 9<sup>th</sup> meeting, there will be additional bars here so you will be able to see how many of the metrics were actually collected compared to how many were required. We're also going to look at maybe what's being collected but maybe what didn't get reported for whatever reason because of the way either we read the statute or because of what our capabilities are, the Department being brand new we're very limited on what we're capable to do. We need to figure out what is missing and how we're going to get there. Step 3 will be, how do we get there. We are not there, yet. We are just trying to figure out where we are. And I wanted to reassure this Commission what our plan is. We're being deliberate. I want to be very responsible in this data collection piece. When we get to the point of actually assessing outcomes from the enactment of AB 236 we want to make sure we are doing so in a reliable way that is also sustainable and that we can keep doing it in the future because I want to help us be set up for success.

That is the extent of my report at this time. I wanted to let you know we've been meeting. We have our first collection of data and will continue to meet. The agencies are incredibly cooperative and collaborative, which I think is a very important piece of this, working together. I appreciate everyone's support from the agencies and those of you who work with those agencies. They are phenomenal, your people are great. I feel the collaboration works both ways, if we each need something, I can reach out to either one and they can reach out to me. I'm optimistic about where we're going to go. And look forward to at the December 9<sup>th</sup> meeting all of us meeting here together. I will invite those agencies and those representatives so that when presenting that information to this Commission we will all be available to answer questions about where we are, what we've collected and what guidance we need from this Commission for next steps. At this point I'd be happy to answer any questions or hear any comments from the Commission regarding this issue.

**Chair Hardesty:** (As a starting point, I will ask the Director at the December meeting, to include a copy of the statute.) The Commission members may not have that readily available to them so they can see what the statutory metrics list consists of. People can have that as a reference point from what we're working with. Are there any questions from the Commission members on the steps the Department is taking to develop the data, acquire the data and assess it consistent with the statutory requirements? Do any Commission members have any suggestions to the Department about doing something different? This is a challenging but fundamental requirement of the Department. From what I know of what has been accomplished thus far, it will be very (inaudible). I think you will really look forward to the December meeting and some of the information that's been provided by the various agencies. I do want to thank all of the agencies who've responded and they're ongoing and continued cooperation. It's really appreciated and it's essential to what the Department is doing. Director, Chief Carpenter, Mr. DeRicco, all of you folks, thank you very much for your ongoing help and input. Are there any questions

on this topic?

**John Arrascada:** I have a comment applauding the director and the Division. This is a Herculean effort even getting baselines established, so we can move forward. The work today is tremendous. I just want to thank you on my behalf.

**Chair Hardesty:** Thank you, Mr. Arrascada. I appreciate your comment. Vice Chair Callaway and I have been on these commissions for more than 10-12 years. Consistently there has been a call for data in order to make informed decisions. I think we're getting closer. It's taken well over a decade to get us somewhere closer to where we can actually make intelligent, informed decisions on some of these issues. I really appreciate the dedication of this staff. I did want to circle back and add one thing if you don't mind. Victoria, you mentioned to the Commission members the names of the two members of staff being added and a brief description of their background, I think that's pretty impressive.

**Director Gonzalez:** I would like to, I just want to make sure they've wrapped up their personal matters for their transition, not transition, but moving from their current employment to us. I'm not quite sure where they're at with that so I don't want to out them in case they haven't given their notice yet. As Justice Hardesty knows, the qualifications of the individuals coming on, we are very excited, and I guess it's for them, too, in case they happen to be watching. We're all very excited and you can see this Commission is excited to bring you on if you're listening. I will say the staff attorney we found has experience not only in research and writing, but with collecting and aggregating data. And I will say one of the things I'm excited to talk about when we bring everybody on, I do think we have a Department full of unicorns, and I know that phrase gets used a lot right now, but I feel that every time someone gets added to this Department, myself included, this person is supposed to be here. The new people coming on, I'm just so excited and I think this Commission is the same way and I can't wait to bring them on. Our other assistant does have experience with Open Meeting Law and working with a task force that's similar to this Commission. I think they're going to be excellent additions to our Department and this Commission and can't wait to introduce you to them next month.

**Christine Jones Brady:** I was just going to say the same thing that Mr. Arrascada said, that this really is a lot of work, robust effort and finally getting Nevada some data they can actually base some decisions off of. Thank you.

**Chair Hardesty:** One of the things I want to make sure the Commission is on board with, is the intense effort that has been made by the Department, at least I've requested it as Chair, is to establish a baseline of July 2020. I think that is key in moving forward. I want to make sure everybody is on board with it because that has been a key focus of this data effort. If there's anybody who has comments, questions or concerns about that, we need to know that right now because that is a key focus of the building block.

**Ms. Brady:** Does that mean we'll get that baseline basically just after the Legislative session?

**Chair Hardesty:** What we have of the metrics that can be acquired for the baseline of the December meeting, it is important to know that not all the matrix demanded by the statute are capable of being provided by the agencies. It's not their fault. It's an over request, not the Legislature's. I'm not saying these aren't appropriate matrix that shouldn't be requested. But there are challenges, technology,

process, capabilities, that limit the agency's ability to respond and their staff to be able to respond. What Director Daniels and Colonel Carpenter and others have done is pretty impressive. But when you have to go through and hand count some of the files. I mean, we could into the weeds, but if you have questions about that, happy to do it.

We could have the Colonel or the Director share some of that so you could get a sense of this. But this is a tough project on their part. The agencies have been tasked with a tough chore. We can applaud them and offer accolades, but until you hear what they're actually doing, or you see what they're going through, or what Victoria and Sherry are having to work with. It's just an incredible challenge. Frankly, if the State is going to make serious inroads in this area it's going to have to make some budgetary commitments just to be able to accomplish some of these objectives or we'll continue to proceed with our hands tied behind our back on a number of the matrix being requested. Colonel would you like to offer any comment, or Director on the steps you folks have been trying to do. I don't want to prolong this meeting, but your staff has been amazing, but you've been asked to do some stuff that is pretty tough to do.

**Colonel Carpenter:** Two things: when you're talking about information data, are we going to start from July 1 when AB 236 came into play, or where are we starting. The data will be different prior to, right?

**Chair Hardesty:** The data we expect to assess and report on after July 1 is going to be compared to the data that was collected to date, through July 1. I don't know the extent of what we'll be able to be successful when collecting data post July 1, for our January report. I think that may be unrealistic to accomplish. I've said to Victoria and I'm sure she's conveyed this to you folks, we're not going to kill folks to produce stuff we can't produce. We can only produce what we can produce and if there's a line in the report that has says 'here's what we tried to do together' that's what we'll do. People need to know and be transparent about this process. And why it can't be produced is a fair question but it sure as heck isn't going to be for a lack of effort.

**Colonel Carpenter:** I'd like to touch on that quickly. When AB 236 was passed, I think the Division had to take a deep breath because there were many areas the Division would be required to give information on that we just simply couldn't. And when I say couldn't, our records management system is very antiquated, I always like to say it's like playing Atari in 2020. It's 20-plus years old and we're barely hanging on. The good news is that we have a new records management system being built and it should be online hopefully in a year and a half, with the requirements built in. So that's really, really great news. Some of the reason why we couldn't do that is number 1 we have an antiquated system, and number 2, I guess it would be possible to hand count certain things, however, some of the requirements that were outlined in the statute we simply don't track. We've never tracked before. So, it would be difficult to try to track something in an antiquated system there's no real way to do that. It's very complicated.

I just want everyone to know that the Division thinks it's wonderful to track these things and we will track them in the future. But we're almost at a loss. And with staffing, even if we came across a way to do this, we're down about 107 people state-wide vacancies. We simply just don't have the manpower to do that as well. It's not excuses, it's just kind of the reality we're facing. And I do appreciate Director Gonzalez being so patient and Justice Hardesty being so patient with us. We want to do the right thing we just need the tools to be able them.

**Chair Hardesty:** On the chat there was a question. Maybe we can pose that, then circle back on Director Daniels.

**Director Gonzalez:** Assemblywoman Nguyen, would you mind asking your question. It's on the message board, but if you wouldn't mind asking so we could have it on the record.

**Assemblywoman Rochelle Nguyen:** That's fine. You mentioned you have a new system but it's not going to be built and fully operational for another year and a half, is that correct? Is there flexibility in that new system to be able to program, do you still have to have manpower to physically enter in that data? Or is it capable of, is there any type of information-sharing technology that happens between the agencies and the courts?

**Colonel Carpenter:** I believe it will be interfacing, it already interfaces with Odyssey and the courts down in Clark County. And in some of the rural areas it will interface with our CAT system, our dispatch system, it will interface hopefully with Notice, with NDOC. So, we're building those interface capabilities, so we're not stuck. I think one of the things P&P had to look into ourselves and say hey, we've been doing things a certain way for 20-plus years and we have to go a different way. So, if the system looks different, that's good, we want it to be different. We really had to go out of our own way sometimes, so I think this will be great for the entire state.

**Assemblywoman Nguyen:** I'm glad to hear that. One of the things I found so frustrating is the fact that, even with the collection of data for AB 236, people looking manually at judgements of convictions and pre-sentence investigation reports and manually putting that information into a data collection-like data base. I'm glad to hear that there will be some flexibility and it will be more (inaudible). My second question, and this is probably for Director Daniels, do you know if it's also compatible with your information sharing systems?

**Director Daniels:** Justice Hardesty, thank you for the question. I will have Chris Franklin, who is our Management Analyst IV, respond to that question.

**Chris Franklin:** Good morning. We at NDOC are facing a lot of the same challenges DPS is. We were fortunate that in AB 236 we're allowed to have a data analyst position included so that we could utilize that person within our undermanagement position. But as Director Gonzalez knows, with the hundred different metrics we have to pull, we've had to do a lot of realigning within our own system to make it work. When we talk about data sharing with other agencies including DPS, there's a lot that goes into that capability. And although we have provided Memorandums of Understanding so we can do that, there's still a lot more we have to do out there because it's not just between our two agencies. There is a lot of diction we need with our collaborative partners after release so we can have one giant system. I know that (DHHS), and (DWSS) have systems in place that they use. Someday in the future we're all going to have some centralized data sharing service we're going to be able to pull data from, and it will encapsulate everything from the time they're arrested all the way to the time they're through their final parole and probation release.

**Assemblywoman Nguyen:** Thank you.

**Chair Hardesty:** The record should reflect Judge Freeman has been able to join the meeting and he

did so five (5) or ten (10) minutes ago. Thank you, Judge, for being available. Any other questions either for the Director or other members of the Commission.

**Director Gonzalez:** I just wanted to add something and emphasize my analogy I established because I will revisit this as a way to not only encourage us but to keep us focused. I know it's coming from my own experience as you know, but I will go back to comparing it to my 7<sup>th</sup> graders walking into my classroom. They don't walk in the first day and they're ready for 8<sup>th</sup> grade, right. And that would be great. There are students who walked into my classroom and had a 3<sup>rd</sup> grade reading level. That was not their fault. That's what I mean by assessing, is looking around and thinking, who are these students in my room, and what can I get them to accomplish. That's why I think it's so important not to just compare what we have to do in the AB 236 statute, it's not fair. We need to be realistic. Where are we. And if some of us are below grade level, that's okay. We're going to get there. And I say that if we're going to continue to interact with agencies and this Commission, you understand my values and what's important to me. I'm a coach, I'm encouraging, I'm also going to push us. We have that AB 236 statute in front of us, we're all aware of that. We're going to shoot to graduate. It's going to be really tough for some of us and others may not be strained. They may look over at their classmates and think why is that person struggling so hard. We're all at different levels but we're all going to get there. I will return to that analogy in the future because it's helping me and it's helping me guide my staff. I will share that with agencies as well as we work. And if we get frustrated, and we're going to get frustrated. But we'll step back and look at the progress we're making to where we want to go.

**Chair Hardesty:** I appreciate the education analysis, or analogy. I fear some of the matrix were in preschool, not 7<sup>th</sup> grade. In any event, we're making great progress with everybody. And I think that's something that needs to be stressed. Only through the cooperation of the agencies involved will this be successful. I again want to thank everybody for their help and cooperation. Director Daniels, you and your team have really been challenged with quite a task. Again, thank you guys for all you are doing and ladies, for your input. Unless there's any further comment on Agenda Item 5 I'd like to open Agenda item No. 6.

## **6. Possible Recommendations for Technical Corrections to Assembly Bill No. 236 (2019)**

**Chair Hardesty:** Some of you may be aware the ACAJ met recently, and it was part of their ongoing meetings to discuss their objectives and expectations. Prior to that meeting I had the benefit of meeting with the Chair, Assemblywoman Nguyen, and we talked about how our Commissions can be most effective in collaborating and providing recommendations to the Legislature related to the criminal justice system. We also discussed ACAJ would be hearing recommendations from agencies regarding technical corrections to AB 236. I want to stress, at least from my perspective and I think from our Department's perspective, when we say technical corrections that's what we're talking about. Changing an 'a' to 'an' or 'd' to 'the' or 'they' ... this is not a process where we are reopening the substantive of the revisions of AB 236 and putting the entire criminal justice community through the same challenges, debates and gnashing of teeth, if you will, that took place in the last Legislature.

In anticipation of the October meeting of the Sentencing Commission and the recommendations the ACAJ would hear on September 20<sup>th</sup>, Chair Nguyen and I agreed that Director Gonzalez would make

a presentation to the ACAJ, which she did at their September meeting. The ACAJ heard recommendations from agencies and other stakeholders about possible technical corrections, though we wanted to call this to your attention. I'll note that it's my opinion and I assume the members of the Commission that neither substantive nor policy changes should be made to AB 236. We're not taking those up in this Commission, but certainly to the extent there are technical changes that will not have an impact on the policy decisions that have already been made that's worth considering. After looking at all of this, Director, if you could give the Commission an overview of this topic and maybe some of the items that have been raised.

**Director Gonzalez:** Thank you, Justice Hardesty. As the Chair stated, on September 30<sup>th</sup>. ACAJ heard presentations from various agencies and stakeholders. This included the Office of the Clark County District Attorney, Office of the Clark County Public Defender, Las Vegas Metro, the Division of Parole and Probation and the Nevada Department of Corrections. It is not my intent to summarize those presentations here, but rather to suggest what this Commission and the Department of Sentencing Policy might add to the discussion, when I make a report to the ACAJ on Nov. 12<sup>th</sup>. If I make a report if this Commission wishes, I would recommend, that anything I report to the ACAJ on Nov. 12<sup>th</sup> would include the following information: Possibly inform the ACAJ of the duties of the Nevada Sentencing Commission, that this Commission is tasked to track and assess the outcomes as a result of the enactment of AB 236, this includes the collection of data. The Commission is tasked with identifying savings from the enactment of AB 236 and recommending how those dollars should be invested into programs and treatments, which will reduce recidivism.

If possible, I could recommend collaboration with the Commission on any changes to AB 236 as this may impact the duties of this Commission, in terms of tracking and assessing outcomes. Because that is the duty of this Commission, it is important for this Commission to be aware exactly what is being tracked and what's important, what's going on in the criminal justice system. As far as technical changes that have been identified by our Department, these have only come up as we've been interacting with agencies and collecting. Specifically, from the perspective of the Department, would recommend providing more specific requirements regarding the appointments of the Nevada Local Justice Reinvestment Coordinating Council. As I mentioned when I made my presentation to the Nevada Association of Counties, that did come up. I looked at the statute again and realized there aren't any qualifications.

When we look at other commissions like this one, or something like the Regional Behavioral Health Policy Boards, there are very specific qualifications made to either behavioral health, the criminal justice system, things of those nature. I think individuals with that type of experience would be very beneficial to the Council. Adding something like that to the statutory language for the establishment of the council is something I've identified. Also, getting data from the local level is going to be important for this Commission, because I know that's an issue. When we're looking at what the outcomes are, we want to be very holistic about this, not just the state level but what's happening at the local level.

Additionally, I would identify this Commission has two (2) comprehensive reports due. They're due within a month of each other around session. My recommendation would be to either combine these reports or separate the requirements of each report as there is some overlap. I recognize one of the reports is very specific to AB 236 and what the outcomes are. But there's some very general



requirements of the report regarding recommendations for sentencing and corrections. If we wanted to keep those separate, we could. The time frame is not an issue. I just want to make sure that when we're putting them together, we stay focused on those. That can be reconciled in writing, it's just something I noticed and would bring to the attention of this Commission.

Other changes that have come to my attention in my interaction reviewing metrics, one of the statutes, I did not bring today for this Commission but will do so in the future, the requirements for the Central Repository provide that the percentage changes in uniform crime rates for this state and county over time. Over time is a little broad. The only thing I would recommend would be something like, per the guidance of the Commission ... just that it's very clear when we're expecting metrics from an agency, they know exactly what they're required to do. We can do that right now without that language, but as far as sustainability in the future, I think that is something that would be helpful for future Commissions and future agency leadership when they're trying to report their metrics to the Department. The other thing would be clarifying exactly how metrics like gender identity and expression are collected. We could adjust that language so that it matches up with what is being collected. We can figure it out, but again if we're looking for sustainability, we want to align those categories and what is it we're actually trying to collect and just clarify that.

These are the types of technical recommendations I have identified that could be amendments. There is at least one metric of data that no longer exists based on what has happened during the last Legislative session, it would just be removing that and I would work with the Agency on that to make sure that's exactly what's happening. Those are the kind of recommendations I've identified and that would be the overall substance of my report that I would want to provide to the ACAJ in November.

Lastly, emphasizing that this Commission would like to work with the Legislature during the session to continue to provide input on policy recommendations because I'm sure there's going to be a lot of discussion and I think in the future the Commission could be a very valuable resource as we get this data piece up and running. Being a way to corral all that and be a resource of just someone to ask questions so when it comes to what the impact might be of some policy implementation. With that I'd be happy to answer any questions or hear any comments from the Commission at this time.

**Chair Hardesty:** Commissioners, are there any questions of Director Gonzalez about her report? I'll also ask, do any members of the Commission have any technical changes they would like to have her include in her report to the Advisory Commission on November 12<sup>th</sup>?

**Assemblywoman Nguyen:** I have a question with regards to recommendations. I don't know that I would call them technical, they're not policy, so I'm assuming they're technical. Obviously the way AB 236 was just implemented, and the inability to collect this data ... short of people working 24 hours a day getting it done, are there changes as far as, on giving some more flexibility on when those reports are presented, to coincide with some of the ability collect that data? In retrospect it sounds like we probably should have said first reports should have been due a year after. I don't know where that would go in but are there any of those kind of changes that might be helpful?

**Chair Hardesty:** Assemblywoman, I'd like to first respond if I might. I would urge that the reports continue to be required. I think the Director has a good point that January, February reports are overlapping and that could probably be reduced to one report. I would urge that one, stay fast with the

requirements of the reports and have those reports indicate why they can't be collected or what steps are being taken to get that collected. Otherwise we lose accountability. And let me just offer very briefly, a little bit of history. In 1995 when the Truth in Sentencing statues were enacted, a key component was the creation of the Sentencing Commission or at that time the Advisory Commission. It went six (6) years without a meeting. I think that contributed as much as anything to the Legislators and the public's not being aware of the accumulating problems in being able to identify data, collect data, track it and the systems necessary to do so. I think it's beneficial for the public and the Legislators to see, here's all these metrics, we think these metrics with the exception of one, at least, are important in assessing where we are and where we're going. If we can't collect them, we probably ought to know that and why.

**Assemblywoman Nguyen:** Thank you, I appreciate that. I'm just wondering if there was anything. But I appreciate you. Sometimes you need that hammer over your head just to get things done. I remember after AB 236 ultimately passed, Ben Graham came up to me, 'I remember in 1995, we're going to come back in the next session and readdress and see how Truth in Sentencing has gone. And, fast forward to 2019 we finally are looking at some of the issues.' I recognize that and appreciate that.

**Chair Hardesty:** I don't want to foreclose this, maybe people haven't had a lot of time to noodle about this. I want to make sure everybody, we include this item on the agenda again in December, so that everybody can take another look at AB 236 and if you have additional questions we'll raise that again in December maybe when Commission members are better prepared to respond to that. As of now, does anybody have any objection to the Director making the same report and identifying the same subjects that she presented to us today to the Advisory Commission at its November 12<sup>th</sup> meeting.

**Ms. Brady:** I move we vote 'yes,' on that. I don't know if a motion is required, but if it is, I move to vote 'yes' on that.

MS. BRADY MOVED TO INCLUDE ITEM ON THE DECEMBER 9th MEETING.

DR. ELIZABETH NEIGHBORS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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

**Chair Hardesty:** I have a special request of Mr. Hicks on this topic. Chris, if you don't mind, I know that your folks are about to gear up and start doing in-depth evaluation of this site. I don't know if the sub-award money has been made available to you, yet. I know there's been some problems in getting that funded. But when you folks get into that, maybe they could make that an initial priority so if they identify some technical areas that are appropriate, we can hear about those sooner rather than later. If you don't mind, would you pass that on to Jennifer and the others who are working on this?

**Christopher Hicks:** Definitely. Thanks.

**Chair Hardesty:** That takes care of agenda item 7 as well. And this will be a continuing item that we'll put on in December. Let's move now to agenda item 8.

## 7. Recommendations for Technical Corrections to Assembly Bill No. 236 (2019), if any, from the Nevada Sentencing Commission

### 8. Statement of Costs Avoided

**Chair Hardesty:** At the July 29<sup>th</sup> meeting of the Commission we approved our first report. The Projected Amount of Costs Avoided report, and that report was submitted to the Governor and the Director of LCB on August 1<sup>st</sup>. In fulfilling the duties of the Commission, we need to provide a Statement of Costs Avoided. Assembly Bill 236 requires the Commission to submit this statement not later than December 1. Also, to the Governor and the director of LCB for transmittal to Interim Finance. Director Gonzalez has prepared an outline and what this statement would look like similar to the projected amount of costs avoided. There will not be any actual savings in the report, but this outline will provide the framework for future submissions. Director.

**Director Gonzalez:** Thank you, Chair. What I have provided in your materials is what is titled 'The 2020 Statement of Costs Avoided.' I know the Commission only received this outline yesterday, I would like to take the time to walk through it with you at this time. As far as context, again, what we did at the last meeting was the projected amount of costs avoided. The idea with the statement of costs avoided, is it's coming a couple of months after that last projected amount. Overall, I would say big picture is, this is looking at the actual number of inmates in NDOC on a specific date. Then making some calculations in comparison to what was projected in 2018 of what the current year would look like. What we did in the summer was purely projections, from one projection to another. This statement would be comparing actual numbers to projection, which is the difference.

My proposal would be the first section would be the background section. You can see bullet point No. 1 would summarize Assembly Bill 236 as far as what the requirements are of this Commission and what the mandates are for this statement. I would summarize the Commission's requirements are to submit not later than December 1 each fiscal year, a statement of costs avoided. That's a requirement and citation to the statute.

Bullet point No. 2 under the background section would identify what the purpose of this statement is. Again, it's to identify costs avoided. Specifically, what the statute says, is for the preceding fiscal year. That is what would be identified in this statement. And we'd be comparing what savings were resulting from the passage of AB 236. The purpose of this would be to assist the Legislature in making recommendations for reinvestment into programs and treatment for persons who are involved in the criminal justice system.

Again, to reduce recidivism. Bullet point 3 would give a summary of what we're familiar with how we got here with AB 236. A summary from what the ACAJ did back in 2018, and you can see those are summarized in the sub-bullet points A, B, C and D in the final report. And if you look at C, 3C under background, what ACAJ identified in their final report was a potential savings of over \$640 million over ten (10) years. That's a number we'll go back to. Now that we'll have actual data, we can track that as we go along. Emphasizing again the recommendations from ACAJ resulted in AB 236 with those going into effect July 1.

Moving on to the next section of the statement, would be a Methodology Statement. This is where we summarize how we got here and what we're doing. Again, we compare what happened in 2018, so Bullet point No. 1 under Methodology, would be summarizing the 2018 final report from the ACAJ and how they identified those projected costs avoided. How they got the \$640 million. They looked at August 2018 JFA projections, they identified variable cost per prisoner and then they compared prison populations when AB 236 was enacted to AB 236 was not enacted. That's how they arrived at their savings. That's a very broad summary of that calculation. We talked about that in detail for the projected amount of costs avoided, that's I just put it in outline form here. Because this Commission has seen that latest report and this is going to be similar to that.

Bullet point No. 2, under Methodology, is the 2020 projected amount of costs avoided. This would be what we did looking back in August. I think for the statement of costs avoided that's provided in December that's important to reference whatever was discussed in the projected amounts. Just so we can keep it in context with what amounts are identified in the statement. At this point I would insert the calculations we identified in that report so we can have a quick reference of that, and I could also include a link to that report so anyone who's looking at this could go back and reference that directly. I think this would be important to do in the future as well, to always include links to the previous projected amounts because we want to see how this is tracking over time. The report we did back in August had recommendations as to where that financial support should go to if savings are identified. Again, that's from the statute, I'm not going to go over them in detail because we really didn't have anything to recommend but that's where the recommendations would be prioritized.

I'm now on Page 2 of my outline, Bullet point number 4 of Methodology. Then we would get to this report. Under Methodology, first we would go under the 2018 data, we would review what we did back in August, then we're finally at what we're doing in December. The statute requires this Commission to develop a formula to identify the statement of costs avoided. This Commission created the foundation for this formula when we talked about the projected amount of costs avoided. That was using the JFA 2018 prison population projections. For this methodology for the statement of costs avoided, it would be a similar formula. We would use the JFA 2018 prison population projections. If we had something to calculate, we would be looking at the prison population as of June 30<sup>th</sup> of the immediate, preceding fiscal year. The statute requires we do a calculation of what happened in the preceding fiscal year, so I would propose we look at the population on June 30<sup>th</sup>.

That was in a question that came up in the last meeting, was exactly how we would choose those numbers. That would satisfy the statutory requirement and give us consistent calculations and I would obtain those numbers from NDOC and work with them on making sure we report the same numbers. Then what we would do is take a variable cost per prisoner, which is very similar to what we discussed for the projected amount of costs avoided. We would use the cost per prisoner approved by the Legislature from the immediately preceding session just as we did for the projected amounts. If this Commission recalls, that included costs associated with medical treatment, institutions, remote camps, non-remote camps and transitional housing. Looking at 4 B, there's nothing to report for Fiscal Year 2020 because AB 236 had not gone into effect in the preceding fiscal year as the statute requires. I would note here in this report, we will do what we mentioned. I would add similarly what this Commission added to the projected amount report, that the Department and the Commission will collaborate with NDOC to include possibly breaking down savings by institution

so we can recognize the base operating costs required at the institution level when we're calculating savings. Also, discussing what's happening at the local level to determine whether any costs have been diverted to local jails.

The last heading of this statement would be a table, to track the costs avoided and the dollars reinvested over time. Obviously we don't have anything right now, but I think something like this would be very useful to have in the future and we fill in as we go along so that every time the Commission submits something like this there can be a quick reference as to where things have been going and where we're at. You can see that we would be clarifying we don't have anything to report this year but, this would be a framework of what we report in the future. This outline I think is substantially specific and consistent with our report submitted in August. I believe if the Commission chose to approve this outline, I would be able to write this in full and submit it before December 1 without additional action from the Commission, because it's basically what you see here and similar to that report in August.

Additionally, the Crime and Justice Institute is still providing technical assistance to us. They have been providing input on this outline and they are going to continue to provide input on the statement that's submitted to the Governor and the LCB for IFC. They would continue to assist editing and revising the statement before we submit it on December 1<sup>st</sup>. However, I am happy to do whatever the Commission would like. I'm just trying to help us with all of our workloads as the holiday season comes. I'm happy to take any questions or comments and any other guidance that you would like me to do in terms of submitting this statement.

**Chair Hardesty:** For anyone who's done their thesis or some other monumental or educational essay, you can see what a challenge it is to prepare this report. What I urged the Director to do is to work on an outline so she can begin writing along with her staff. What I'm looking for, of course any questions, suggestions, modifications to the outline. Ultimately once that's been discussed, a motion to authorize her to proceed on the basis of the outline she has provided. Are there any questions or concerns about the content of the report as outlined by the Director?

**Russell Marsh:** I have a question, Chair.

**Chair Hardesty:** Yes, Mr. Marsh. Go ahead, sir.

**Mr. Marsh:** Good morning, Victoria. I have a question about the outline No. 4 D, because I take it's a particularly important point, considering whether cost savings to the state are being diverted at the local level. Whenever we're thinking about criminal justice reform, we always need to look at the overall costs. And it's certainly been an experience in other states where costs have just been moved to different entities. It may be too early in the process to ask this, but if you have any thoughts about how to assess that?

**Director Gonzalez:** My plan right now, number one, would be to work with our vice chair as he has been helpful in guiding this and it's an important thing to include. But obviously, he's one in seventeen (17) counties. That's why I'm hoping the Coordinating Council will be a key source of this. One of the things I'm going to ask of them is to provide, when we get them up and running, is to provide data for exactly this purpose, so they can see their work is being put to good use and being

brought to this Commission. That's my number one plan right now. Then continue to build relationships with those counties based on that. That's going to take some work, I agree with you. My intent is starting with the Council, but then I do have, along with the assistance of this Commission, a plan to reach out to every county individually and do what we can to collect information from them and then build those relationships. That's a step in the process for sure. That would be my action plan.

**Chair Hardesty:** Mr. Marsh, if I could supplement that response, we are going to reach out to the Sheriffs and Chiefs Association and ask them to become an active player in this whole process.

**Mr. Marsh:** My only other comment is, Justice Hardesty, about the comment of this being a lengthy process, certainly track back out the effects of COVID-19 on cost savings. For this particular year is probably and impossible task, as we look over the next three or four years, we may be able to get a better sense of things. Thank you very much.

**Chair Hardesty:** Thank you, Mr. Marsh. I'm not sure, can you hear me alright, Russ?

**Mr. Marsh:** Yes, I can.

**Chair Hardesty:** I think your point is really well taken. Obviously, COVID-19 on the State has affected lots of different things. Agencies, employees, budgets, etcetera. That's a factor that's going to have to be evaluated by this Commission going forward. And you adjusted for comparative purposes.

**Director Gonzalez:** And I can add to that. I think we did add something similar to the projected. So, I will add this to the outline as well. Thank you.

**Chair Hardesty:** That was noted in the initial report in August. Any other suggestions or questions for the outline the Director has provided.

**Chuck Callaway:** I want to throw a comment out there in regard to Subsection D – cost diverted to local jails. I think it goes beyond local jails and I know we're very preliminary into this right now and it's going to be difficult to calculate this, but one of the things that's of high interest to me, is on the law enforcement side, cases where – particularly California because they've been ahead of us when it comes to criminal justice reform with their Proposition 47 and other criminal justice reform measures. We see individuals who are involved in criminal activity and they have significant criminal activity history and for lack of a better term, to be blunt, they should have been in prison at the time they committed a subsequent offense and in many of these cases it's violent offenses. Someone has murdered someone or raped someone or committed an armed robbery, and you look at their criminal history and all the things he's done, why is he not in prison. I think the cost diversion to the local jail, one component of that would be down the road looking at inmates who are in the Clark County Detention Center and other local county jails, and looking at what they're in there for and determining prior to AB 236 they would have been in prison instead of the local jail. That's one component. We also hear about collateral consequences all the time. I think there's collateral consequences to victims. How many times are we going to see we have victims, who are, or the person who victimized them, might have been in prison or would have been in prison prior to AB 236. As we move forward,

if we're talking about cost savings and we're talking about these things, we also need to consider those very important factors in my opinion.

**Chair Hardesty:** Chuck, certainly we can identify. I would divide those into two separate points. One of course, dealing with the prior criminal history and prior sentencing status of offenders. The other separately is victim impact. Do you think, at this stage, we are able to do anything in this report or as part of this outline other than just highlight those topics. I'm thinking in terms now of the pragmatic part of just writing the report. I don't think we have any data, I don't think we've even worked toward how we go about collecting that. I wanted to get your input on that point.

**Mr. Callaway:** I think you hit the nail on the head, Justice Hardesty. I think we're very early into this and at this point, I think Victoria has done a fantastic job of creating this outline. From my perspective, I just want to ensure that as we move forward, we have the ability, that maybe this outline is not necessarily set in stone. That it's a good platform to start from, but as we get a year or two in down the road in this and we start to see specific cases like I mentioned that we have the ability to incorporate that into the analysis of cost savings, and also look at are we really seeing cost savings in certain cases where people have been through the criminal justice system multiple times and what's the cost for that. To house them pending sentencing, for the court process, for bringing victims in, and all those subsequent costs that may have been avoided had the person been incarcerated for the first offense they did. I think that needs to be a component moving forward. But I agree with you that right now, we're too early into it to be able to calculate that but it needs to be on the radar.

**Chair Hardesty:** If the Commissioners will give us this latitude, I will give the Director what I would add as Subsection E, and number 4. Generally speaking, it would focus on the impact of AB 236 on victims. I want to refine that a bit, hopefully being respectful of Chuck's comment and Mr. Marsh's comment, I think it's a topic I think we should at least include as a bullet point and then maybe be able to insert some comment about how that might be a carry-forward item in the future to assess.

**Kimberly Mull:** Carrying off of what Mr. Callaway just said, I think we also need to make sure we're also looking at the costs associated with the victims for service providers. Because like with COVID-19, we've seen an increase in domestic violence shelters, domestic violence programs and an increase in offerings of services to victims and there's a cost associated with that. Whenever we see, historically, less abusers going to jail or more victims needing services for an array of things, we see service providers have an impact because service providers need to provide more services to people. That's something that a lot of time gets overlooked when we look at an impact, a financial impact with communities. With Nevada, unfortunately, we don't offer, we essentially offer little if any state funding to most domestic essential violence programs for the state. We don't really track a lot of that because we don't provide their funding. I think we need to make sure that we collect that data, how they are and if they are being impacted by this. That way we can see financially if they're being hit harder down the road by this, how does that affect their funding and correlating that to, are they asking for more money from the state are they asking for more money from the counties, are they asking for more money for whoever because of an increase in revictimization or an increase of needing more protection orders issued because people are not being incarcerated and whatever that's associated with. More victim compensation programming is paying for more relocations because fewer people

are being incarcerated. Things like that we need to look at that is associated with victimization but not necessarily the victims themselves, but the services the providers are serving those victims.

**Chair Hardesty:** Thanks, Miss Mull. That's a good point. And perhaps broadening that a bit, what have the provisions of AB 236 created for service providers in the criminal justice system?

**Assemblywoman Nguyen:** I also wanted to point out that Vice Chair Callaway had mentioned some comparisons to California's proposition and some of the reform measures they enacted. I would argue that the reforms in AB 236, there was a substantial effort, and they were mostly targeting non-violent, like if you refer to robberies and other types of violent offenses. For the most part, the majority of AB 236 doesn't include most of those person-to-person crimes. Obviously, there are victims when there is a possession of a stolen vehicle or someone who goes in to cash a bad check at a casino. I'm not saying those victims and the services and the things that they need shouldn't be tracked because I think they should. I think it's also important to look at that. I know that NDOC and the P&P have some amazing programs working to rehabilitate and train in their facilities and within their agencies. I think looking at it holistically is important, too. Not just in a bubble of violent crime. Again, I understand people can escalate from a stolen vehicle to a violent robbery and I don't think that's unheard of. And I think we should look into tracking those numbers. But I also believe there were great efforts made in AB 236 and that's why there was so much bi-partisan support is that we didn't look at violent crime and crime involving minors and vulnerable populations and people-on-people crime for the most part and that's why I think it's important to collect that data. I know you're already collecting so much data; Victoria's adding to her list, but I wanted to make that point.

**Ms. Brady:** Just building on that too, with the focus of AB 236 being so much on substance users, people with mental health issues and that sort of thing, are we going to have someone studying the programs available to people. For example, I was in a meeting with a person named Dr. Woodard, who works with Department of Health and Human Services, and she was talking about systems, putting systems in place, finding and identifying treatment gaps, and looking at a seamless system. She had a word or term for it, I can't think of it right now. Basically from prevention to treatment to release, where all of that we have an actual, we're studying the systems and the programs in Nevada to ensure that when we reinvest that money, we are reinvesting it in a way that is most useful or is most helpful for people who have or suffer from substance abuse, mental health and other issues.

**Chair Hardesty:** I think to your comment, that's a core function of the Sentencing Commission. And will be a core function of the Reinvestment Councils. Certainly, that will be something we're talking about. I think Mr. Logan wanted to weigh in.

**Keith Logan:** If I could be next, I'd appreciate it.

**Chair Hardesty:** Yes, go ahead, Sheriff.

**Chair Hardesty:** Hold on Keith, you may have to start over. We didn't hear your comment.

**Mr. Logan:** Hello, are you there? I'm trying to do video and phone to make this work because I wasn't as able or technically savvy as everybody else. I think what we're asking, Mr. Marsh and certainly with Director Callaway, probably just a placeholder for information. And also with Ms. Mull,



from her standpoint, that should probably work with your advisory council that will be created to figure out how to work those funds back to the specific areas or suggested areas as to where the savings could be better used to work the whole system. If you're going to look at all the good you're going to do, and where we're at with those numbers, you also have to address, were there any negative impacts and have that placeholder for those particular things where they are, and hopefully they are zero. Hopefully if they're not zero, they're very minimal extreme violent crimes. But we can't predict what's going to happen. All it is, is simply getting the information prepared and back to those people who are actually changing and addressing the laws and have directed us to do this. We're not trying to figure out how to do all these things, but yet we still don't have the data, the information, and the actual things. I just think in the report it's important to just simply have a few placeholders for that data as they go from year to year to year in the report, so we can trend and track those types of things.

**Chair Hardesty:** Sheriff, thank you. Any other suggestions or comments from Commission members for the outline?

**John Arrascada:** Somewhat built on what Sheriff Logan was saying, coincidentally, and I see we do it in the matrix, but I think it's really significant we stress the importance of, this is a long game, not a short game. We're projecting years down the road. We're not going to see \$640 million saved in year one. It's really stressed when presenting the outline that AB 236, and I'm sorry to use a sports analogy, but this is a long game we're looking at as far as our savings and whether its placeholders or whatever it may be, we're not looking at six (6) months or ten (10) months, but years of time we need to go in, in order to A, have reliable data and B, have reliable numbers as far as the savings are concerned. The other point I'd like to address regarding the outline, is that I would be fairly opposed to any type of, I'm calling it a look-back vortex, with the changes in law. Not trying to dog whistle here, but we could start going on look backs that from what Vice Chair Callaway said, there was a time when people did not have to register as sex offenders. And if we look back all the way to that time and said now that person today has committed a sex offense, but they're not registered because their offense was committed before 1959 I believe it is, and it's an absurd example, but the point I'm getting to is lookbacks can be very dangerous in what we're trying to accomplish in the long term moving forward with justice reinvestment and wit the reformation with the criminal justice system.

**Chair Hardesty:** Any other comments or input from Commission members?

**Ms. Mull:** I just wanted to add, I know it was mentioned that this was aimed toward those who are incarcerated for non-violent offenses. I understand that completely. I want the record to show that people understand that, and I'll use myself as an example, my rapist, in Reno, has been arrested for trespassing and has been arrested for burglary. If he goes to jail for those things, and gets released because they're non-violent offenses, that I'm still impacted and the victim services are still impacted by that, because even though my case isn't prosecuted for him, I'm still impacted by his release for other things.

I hope that isn't too wishy washy and other linear things, but the service providers in our community are already working on shoestrings and so, when we have individuals who are being released or who are returning back home and even though they have not been found guilty of a violent crime that doesn't necessarily mean they haven't committed a violent crime in the past. Still being cognitive as a

state and making sure we're monitoring how the service providers are being affected is a good use of our time and resources. Ultimately, we are the ones who have to fund and make sure victims in our state, which in Nevada it is one (1) out of every two (2) women when you look at sexual and domestic violence. We really need to have those numbers and a general idea of what's happening so that we can make sure we can provide services for them. Thank you.

**Chair Hardesty:** Any other input for the outline the Director presented?

**Vice Chair Callaway:** Justice Hardesty, this is Chuck Callaway again. If I could just make a quick comment.

**Chair Hardesty:** Of course.

**Vice Chair Callaway:** In regard to some of the comments that have been made, just for clarification. First of all, I 100 percent understand that AB 236 is not aimed at violent criminal offenders. I worked with all the stakeholders at the Legislature throughout a number of groups on AB 236. The point I was making earlier is that we have seen here in Nevada, in our jurisdiction in Las Vegas, we have seen cases of individuals who have come here and committed crimes of varying degree, many of them violent crimes. When we look at their records, they had a significant criminal history out of California, our neighboring state, where criminal justice reform has been implemented. And if some of those reforms had not been implemented, they would be in custody on California and not been here victimizing Nevadans. I'm only asking as we move forward, we look at that same thing here in our state.

Second, in regard to lookback, I'm not saying we go back to when sex offenders did not have to register, but when we went through all the hearings in the Advisory Commission, last interim and previous interims and when we went through the Hearings and Sentencing Commission last interim, and hearings in the Legislature regarding AB 236, we constantly heard how we're overincarcerating in Nevada, how we're going to have this huge cost savings if we make these changes so that basically less people are incarcerated in our state by lowering the penalties and recategorizing the penalties for certain crimes. I'm asking we look specifically at AB 236 to see if these actions are truly resulting in the cost savings that have been claimed. Which to me, if people are out victimizing other people, causing the court system to have to deal with them multiple times, if they're sitting in beds in our county jail because of a crime that's now a gross misdemeanor that they're serving in county jail that once was a felony or a crime that is a lesser offense. That now they're serving at the county jail because they would have been in prison if it was a felony, that's all I'm asking us to look at. I understand that we're not necessarily looking at violent crimes and I'm not asking for a lookback beyond AB 236. Thanks. I just wanted to clarify that.

**Chair Hardesty:** I think we understand the cause you're trying to capture. Are there any other comments to the outline the Director has presented? The Chair will entertain a motion that would authorize the Director to submit a report that is consistent with the outline with the addition of Subsection E, that deals with the impact on the victims, which we'll have to work on the language a little bit there, Victoria. But it's a placeholder, if you will.

JOHN ARRASCADA MOVED TO AUTHORIZE THE DIRECTOR TO SUBMIT A REPORT

CONSISTENT WITH THE OUTLINE, WITH THE ADDITION OF SUBSECTION E, THAT DEALS WITH THE IMPACT ON VICTIMS.

MR. LOGAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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

**Chair Hardesty:** Any further discussion on the motion. Director Gonzalez, would you do a roll call.

THE MOTION PASSED UNANIMOUSLY.

**Chair Hardesty:** Thank you. Let's move onto agenda item No. 9.

## 9. Update on Subawards

Victoria Gonzalez, Executive Director, Department of Sentencing Policy

**Chair Hardesty:** As you know, we received subaward or requested subawards from the Bureau of Justice Assistance to implement AB 236 and we have Director Gonzalez to give us a status report on the approval and funding of the subawards.

**Director Gonzalez:** Thank you, Chair. As the Commission has discussed before, the BJA made funding available to Nevada agencies implementing AB 236. This year, the Commission approved two rounds of requests to include two formal applications to BJA. As you recall, the first round of applications submitted to BJA totaled \$298,500.88, for the Peace Officers Standards and Training, Parole and Probation and the Department of Corrections. Those applications were approved on July 20<sup>th</sup>, 2020. CJI has established contacts with each of these agencies so they are authorized to spend the funds and invoice CJI for reimbursement.

The second round of applications this Commission approved totaled \$120,680.00, and for the Department of Sentencing Policy, the Division of Public and Behavioral Health, Washoe County District Attorneys Office and the Division of Parole and Probation. I'm happy to announce CJI has informed me that on October 15<sup>th</sup> the most recent application has been approved by BJA. This means all requests approved by this Commission have now been approved by BJA. We are currently waiting on the official notice of awards for everyone, but I will inform each agency that has applied that their request for funds has been approved.

Now that the funds have been approved, CJI is currently drawing up contracts for the agencies approved in the second round and hopes to have those out this week. Once those contracts are in place, agencies will also be available to spend funds as approved by the Commission. In total, from both rounds of funding, each agency will receive \$427,188.88 from BJA in support of implementation of AB 236. For our meeting in December, I could invite each agency to give the Commission an update about the activities related to the use of these subawards.

**Chair Hardesty:** Are there any questions of the Director about the update. On behalf of the Commission, I'd like to extend my thanks and appreciation to Bureau of Justice Assistance and the Criminal Justice Institute for their facilitation and funding of almost \$430,000.00, to help support the implementation effort. I think these are dollars that will be put to good use by various agencies in our state. I want to thank them and express our gratitude for the support. It's tremendous.

## 10. Discussion of Potential Topics and Dates for Future Meetings

**Chair Hardesty:** Under agenda item 10, as we always do, we open up for suggestion anyone who wants to comment about potential topics for future meetings. I ask you send suggestions to Director Gonzalez if you have topics you'd like to include on future agendas. The Director and I will then go over those topics and prioritize them for agenda items. I also want to remind the Commission we're statutorily required to meet at least once every three months. We certainly have accomplished that this year and in droves. Victoria sent out a survey regarding proposed dates to ensure we comply with the statutory requirement next year. The dates on the agenda and those with the most consensus were selected. During the rigors of the session I realized we may need to reschedule these, but at least for now, I've asked everybody to insert on your calendar that the next Commission meetings after the session, we have a December meeting of course, we have February 19<sup>th</sup>, 2021 and May 21<sup>st</sup>, 2021. We'll provide more information about that later. Are there any questions about agenda item Number 10 or any comments anybody wishes to make at this time?

## 11. Public Comment

**Chair Hardesty:** I will now move to the next agenda item, which is the second period of public comment, agenda item 11. I'd like to open the opportunity to the public to offer public comment. Ms. Glick, would you like to go through the process as a reminder to those who are watching or those who are new to the Commission so they can participate.

**Ms. Glick:** Thank you, Justice Hardesty. Members of the public who wish to testify by phone, please call 669-900-6833. When prompted, enter 99414086909, and pound (#) for the meeting ID. If you would like to provide public comment at this time, press star (\*) nine (9) to raise your hand. When it is your turn to speak, when your message instructs you, that you are able to unmute yourself by pressing star (\*) six (6). Also state the last three (3) numbers of your number to let you know it is your turn to speak. Please state and spell slowly your name for the record. We will wait one minute for the callers to join the meeting and raise their hands. Justice Hardesty, seeing none, there are no callers for public comment.

## 12. Adjournment

**Chair Hardesty:** Okay, under the circumstances then, we're at the end of our meeting. We don't want to waste anybody's time. Thanks, Commissioners for your participation in today's meeting and your ongoing support and input for the Sentencing Commission and for our Director, once again congratulations to the Colonel for your appointment. With that, I will adjourn the meeting and look forward to seeing everybody on December 9<sup>th</sup>. Thank you.