

**MINUTES OF THE 2019-2020 INTERIM
NEVADA SENTENCING COMMISSION**

November 15, 2019

The meeting of the Nevada Sentencing Commission was called to order by Chair Hardesty at 9:30 a.m. at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada, and via videoconference at the Grant Sawyer Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada.

Exhibit A is the Agenda, and Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMISSION MEMBERS PRESENT (CARSON CITY):

Justice James Hardesty, Nevada Supreme Court; Chair
John Arrascada, Washoe County Public Defender
Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General
Christopher DeRicco, Chairman, Board of Parole Commissioners
Christopher Hicks, Washoe County District Attorney
Keith Logan, Representative of the Sheriffs' and Chiefs' Association
John McCormick, Assistant Court Administrator, Administrative Office of the Courts
Dr. Elizabeth Neighbors, Ph.D., Division of Public and Behavioral Health

COMMISSION MEMBERS PRESENT (LAS VEGAS):

Senator Keith Pickard, Senatorial District No. 20
Anne Carpenter, Chief, Parole and Probation
Darin Imlay, Clark County Public Defender
Russell Marsh, Representative of the State Bar of Nevada
Kimberly Mull, Victims' Rights Advocate
Dr. Emily Salisbury, Ph.D., Gubernatorial Appointee
Tod Story, Executive Director, ACLU of Nevada, Inmate Advocate
Dr. Tiffany Tyler-Garner, Ph.D., Director, Department of Employment, Training and Rehabilitation

COMMISSION MEMBERS EXCUSED:

Chuck Callaway, Police Director, Las Vegas Metropolitan Police Department; Vice Chair
Senator Nicole Cannizzaro, Senatorial District No. 6
Assemblyman John Hambrick, Assembly District No. 2
Assemblywoman Rochelle Nguyen, Assembly District No. 10
Judge Scott Freeman, Second Judicial District Court
Jon Ponder, Representative, Offender Reentry
Judge Michael Villani, Eighth Judicial District Court

STAFF MEMBERS:

Nicolas Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau

Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau

Jordan Haas, Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Kerry Malone

Victoria Gonzalez

Jeannie Hua

Justice James W. Hardesty (Nevada Supreme Court; Chair):

I will now open the third meeting of the Nevada Sentencing Commission. Is there any public comment for the Sentencing Commission? Seeing none, we will move on to the approval of the minutes (Agenda Item IV). Does anyone have any edits or comments regarding the minutes of the Sentencing Commission on September 25?

MR. LOGAN MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 25, 2019 MEETING OF THE NEVADA SENTENCING COMMISSION.

MR. MCCORMICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The primary purpose of today's meeting was to discuss the results of our extended search for candidates for the position of Executive Director of the Department of Sentencing Policy. As you know from the agenda and from the last meeting, one of the applicants withdrew, and we have had two additional applicants apply: Kerry Malone, Victoria Gonzalez and Jeannie Hua. We have asked the applicants to participate in a 20-minute interview session for each of the three of them. Ms. Malone, as you will recall from our previous meeting, had indicated that this date was a conflict for her to be present in Vegas or in Carson City, so she will be participating in her interview by phone. I think all of us had an opportunity to meet her last time, at least those of the Commission members who were present, and she had come to the dais and introduced herself and when we extended the search process.

I want to remind everybody of the rules that we adopted last time for the search process (Agenda Item VI A-1). Under those rules, when there are 3 or fewer applications presented, rule 2(b) comes into play. I don't know if you all have this in front of you. If not, I will just for the record remind everyone that if three or fewer qualified applicants apply for the Executive Director position, the Commissioners may—and then there is a series of options there, one of which is to refer all names to the Governor, two is to postpone interviews and the selection process to solicit additional applicants, and three, by a two-thirds vote of the Commission, disqualify all applicants and begin the application and selection process anew. I wanted to raise this issue with the Commission in the interest of time. It is my own view that we should interview these three applicants and then, having done so, make a decision about how to proceed. It may not be necessary if everyone is satisfied to even take a vote, given the fact that we have three applicants, but I do think that this Commission owes it to itself and to the Governor to at least conduct some vetting of the applicants before we undertake the responsibility of forwarding their names to the Governor for consideration for selection, unless there is a sense among the Commission members that they would prefer to exercise option three and start the whole process over again. I would like to hear from members of the Commission as to whether anyone on the Commission would like to exercise or discuss option three before we spend time interviewing applicants this morning. Is there anyone who has any comment or preference in that regard?

Senator Keith Pickard (Senatorial District No. 20):

Given the amount of time that we've taken already, I thought we really did a good job of making sure that people had an opportunity to apply, that we extended the time. I think that we should move forward. I think we've got three candidates, all of whom have experience. I do believe that we should probably spend a few minutes in that vetting process as you have suggested, but I would urge the Commission to move forward.

Christine Jones Brady (Second Assistant Attorney General, Office of the Attorney General):

I concur with Senator Pickard.

Chair Hardesty:

Does anyone have a different opinion?

Christopher Hicks (Washoe County District Attorney):

I don't know that I have a different opinion; I just want to make sure, did you say that Ms. Malone was not available today?

Chair Hardesty:

No, she is available by phone. She had appeared at the last meeting and was here and was prepared to participate in the interview process, but because we only had two applicants, the Commission elected to extend the application period. She advised us at the time that she would be out of town today on a long-scheduled vacation, but she is available by phone and will be calling in to be interviewed.

Mr. Hicks:

Okay, thank you for that clarification. I can appreciate the vacation because that's why I wasn't at the last meeting. The only thing I would suggest, and I don't even know if it's a suggestion, it's just something that I think we should consider, is I don't think we should disqualify or vote to disqualify all the applicants. I do think that, in light of the fact that we only have three and in light of how important of a position this is, there should at least be a consideration to 2(b) again. I don't mean to belabor the process at all; I just know that we're embarking upon a very important Commission, and I don't know that it would be a disservice to the process to postpone it one more time and solicit even further additional applicants. I'll just throw that out there. I'm not strongly advocating for it, but I think it's something worth considering.

Chair Hardesty:

Okay, thank you. What are the preferences of other Commissioners? Do others have viewpoints or opinions on this?

Dr. Tiffany Tyler-Garner, Ph.D. (Director, Department of Employment, Training and Rehabilitation):

I could support both recommendations, given one caveat. If indeed we are extending the timeframe to recruit to include a pool in the south, because one question I had was, is there something about the nature of the role that is mandated to be based in Carson City? I would support us extending it if indeed they may be placed or report at either site. If not and it is limited to the north, then I would support us moving forward today with the three recommended candidates.

Chair Hardesty:

On that score, I think that the budget that was constructed by the Legislature envisioned staffing up north because of the available space. I will ask Mr. DeRicco to comment on that because he has been doing a lot of the work at the request of the Governor to stand this office up.

Christopher DeRicco (Chairman, Board of Parole Commissioners):

As stated at the last meeting, in working with the Governor's Finance Office, this position was set up for Carson City, in fact, working with the Governor's Finance Office, who were instrumental in securing office space for this, which has been acquired up here in the north. As far as everything has moved along, that is where the position was to be placed as far as I was directed and according to the Governor's Finance Office as well.

Russell Marsh (Representative of the State Bar of Nevada):

My question is, and I guess I could have reviewed the budget and found this out, but what kind of budget does the Executive Director have to hire staff or outside consultants?

Mr. DeRicco:

Once again, that is probably a question more suited—I don't have that information right in front of me—for the Governor's Finance Office. However, I can tell you that once the Executive Director is in place, that individual will then be tasked with selecting another individual that can practice law as well in the State of Nevada that will be assisting in that position, along with two additional support staff individuals, so it is budgeted for four total bodies. The office location has been determined. I believe there is a remodel process that it is going to be going through. Right now it is at, I believe, the Department of Energy building. They had some extra space. They're going to be making accommodations so that this, which will ultimately be a four-person office, will be sitting. Also to that effect, I guess I will kind of respond additionally that computers, desks, all those other things are in the motion as well with regard to this new Department.

Mr. Marsh:

That answers my question perfectly. I just thought that was important because it's something we may want to raise with the applicants.

Chair Hardesty:

Thank you, Mr. Marsh. I'm going from memory now, but we can get the exact number, but it's approximately \$1 million that the Legislature appropriated to stand up this office and provide for the four positions, including the one we are discussing today that Mr. DeRicco described. I would suggest this: I don't see any harm in proceeding with our interviews, and we can revisit the subject of whether to postpone and seek additional applicants if we choose to do so, or we can proceed with deliberations. Is that an acceptable approach to everybody? What we will do then is I have asked the applicants to be sequestered, so to speak. It's a little bit of a challenge, not because of Ms. Malone but because of her location, but we have requested that we're going to interview her first because she is calling in, and then afterwards she has been asked to drop off the phone and not watch the video, and then the other two applicants have been sequestered

outside of the hearing room. We are then proceeding alphabetically through the list after Ms. Malone, and then I will ask the applicants to return to the hearing room, or invite them to if they wish to, to observe or watch our deliberations.

Before we go through the process, I would like to make a disclosure, especially with respect to Ms. Malone. As you know from her letter and from her resume (Agenda Item V B), she is a member of the Supreme Court Clerk's lawyer staff. I do not believe that that provides any basis for my recusal or disqualification under the judicial code or Nevada Revised Statutes (NRS) 281A.420, the state ethics code. I do want the Commissioners to know that I do not review her, I do not review her performance evaluations and there are at least three supervisors between Ms. Malone and myself and the other justices, so I don't feel that that is a basis to recuse from this process just because she has current employment with the Supreme Court. If there are any members of the Commission who have a question about that, I will entertain it, but I did want to put that on the record before we begin the process. Are there any questions?

Senator Pickard:

In a similar vein, I thought I would put on the record that Ms. Gonzalez similarly works for the Legislative Counsel Bureau (LCB) in their legal department, and because I am a member of the Legislature and work with that department, I just wanted to put on the record that I do not know Ms. Gonzalez and have had no direct interactions with her. Typically we go through the Counsel, Brenda Erdoes, or staff at the supervisory level, but not at the staff level. I just wanted to put that on the record. Similarly, I don't believe that it would provide a basis for recusal in that I have had no direct contact with her and don't know her personally.

Chair Hardesty:

All right, any other members of the Commission wanting to make comment on this subject?

John McCormick (Assistant Court Administrator, Administrative Office of the Courts):

I again just want to put on record that both Ms. Malone and I work for the Supreme Court. However, we don't have any sort of supervisory or working relationship. I just thought I'd get that on record.

Chair Hardesty:

All right, are there any other questions or comments?

Mr. Hicks:

I don't want to be too much of a stickler here, but I think it's something we just need to bring up. In the posting for the position in the section on page three of three where it says how to apply (Agenda Item V A), it says, "Applicants interested in this position must submit the following: a cover letter, resume and two letters of recommendation." It says when it needs to be received, and then the last sentence is, "Incomplete applications will not be considered." I'm troubled that Ms. Hua's application is not complete (Agenda Item V D), and I just want to put that out there so we're clear on the record. I don't know how the Commission wants to proceed with that, but I think it's something we should address.

Chair Hardesty:

I was aware of that when I circulated the material. We did reach out through staff to Ms. Hua to notify her that there was a missing letter of recommendation. I am not aware that that has been corrected, but perhaps something has occurred that I am not aware of, so we will ask her about that during the course of our discussion. I have got that on my list of questions.

Mr. Hicks:

Thank you.

Dr. Tyler-Garner:

Before we proceed, I just want to be clear. Are we indicating that we can't adhere to the process because we would only have two candidates because the third would be disqualified because the application is incomplete, and if we proceed, are we saying we're okay with the process not being as objective as stated in the requirements?

Chair Hardesty:

If I wasn't clear about that, my intent was to proceed with the interviews, not disqualify the applicant yet because there may be an explanation that we haven't heard. I thought it was important to notify the applicant that that letter had not been submitted and to provide an opportunity to address that. I haven't seen a second letter. I am assuming that the staff was able to reach her about that problem but I wanted to leave it to the Commission to decide whether to disqualify that applicant from consideration for that reason, but I wanted to at least give the applicant an opportunity to comment on it. Does that clarify the issue?

Dr. Tyler-Garner:

Yes, thank you.

Chair Hardesty:

Commission, my intent is to pose four questions, the same four questions, to each of the applicants, after which I will ask Commission members to pose one question each. We have a limited amount of time, so if you don't need to ask a question, fine. If your question duplicates somebody else's, then we can avoid that duplication, but obviously if everyone has questions, please weigh in. Is Ms. Malone on the phone?

Kerry Malone:

Thank you so much for making this effort.

Chair Hardesty:

No problem at all. We appreciate you being available. For your benefit since you are appearing by phone, as you saw from the last meeting, we have Commissioners in Carson City and Commissioners in Las Vegas who are participating in this process. We have reviewed the rules that are applicable to the selection process (Agenda Item VI A-1), which I think you observed during your last visit here when the Commission adopted those rules. The Commission has decided to proceed with the interviews, at the conclusion of which the Commission will decide whether to transmit all three names to the Governor, to vote on the three, to vote on less than the three or to continue to extend the application process, but I think the consensus is to proceed with the interviews and learn more about the applicants that have expressed an interest in our process. I'm going to ask all of the applicants the same four questions and then I am going to open it up for Commission members to ask questions. We have set aside 20 minutes, and I understand that it might run over a little bit with the number of Commissioners that we have and the questions that may be asked. I remind Commissioners that under the rules that Commissioners need to be cognizant of the questions in the sense that they do not raise issues of discrimination of any sort and that they are not unduly invasive of the applicant's privacy. As you will recall in the rules, the Chair can either sustain an objection or sua sponte object and disallow a question if there is a problem associated with those areas.

Ms. Malone, I have also made a disclosure to the Commission, as has Mr. McCormick, that even though you are employed by the Supreme Court, I don't feel that's a basis for disqualifying me from this process or Mr. McCormick. I have identified the fact that there are at least three reports between you and me, I do not review your performance evaluations at the Supreme Court and I don't evaluate you at the Supreme Court. Do you agree with all of what I have characterized?

Ms. Malone:

Yes, certainly.

Chair Hardesty:

Mr. McCormick of course is in the Administrative Office of the Courts and you're in the Clerk's central staff, so do you know of any reason or basis on which Mr. McCormick should disqualify himself?

Ms. Malone:

No, I don't. Not at all.

Chair Hardesty:

Okay. So, let's begin. We have the benefit of your application (Agenda Item V B), and a great application it is, and a tremendous background and experience, but I would like you, if you could, to briefly take a few minutes and share with the Commission a little bit about yourself and why you submitted this application for this particular position.

Ms. Malone:

I appreciate that. First, I wanted to say, again, thank you so much for doing this this way. I realize it's an inconvenience for the Commission. I'm currently attending the Appellate Judges Education Institute conference in Washington, D.C., so I just wanted to set that out there. I appreciate the opportunity to talk to you guys. First of all, I'm very happy at the court, so it's nothing that—I feel like this is just an opportunity for me to sort of just explore some other ideas, but I'm very happy at the court and I don't have any concerns in that respect. I love my job there. The court is a great place to work. I just happened to see the posting for the position and I was curious, interested, and I'm always sort of looking at ways that I think I can expand my skillset. Really, in a lot of ways, just curiosity and interest is what motivated me to submit an application. I've had a lot of experience in criminal appellate law, both as a practitioner and at the court, and I've always been interested in these kinds of areas. I know they're coming more and more to the forefront in terms of policy and practice and all of that, and sentencing and pretrial release and things like that. I'm interested in all of that at an intellectual and an academic level. It's sort of the opportunity to get involved in something at sort of a more immediate policymaking level than I currently am or have been in the past. I guess what I really would love to do is talk to you all on the Commission and everybody about even what the job entails and what the Sentencing Commission and the Department of Sentencing Policy are looking for and to see how I could help with that and how I could work with all the different stakeholders involved in terms of effecting the goals of the Commission.

Chair Hardesty:

Ms. Malone, there are a lot of priorities to any new position like this. One of those, probably the highest, is organizing your staff and assembling and administering a budget of roughly \$1 million for a staff of 4 people. Would you share with the Commission your

thoughts about that and any experience you've had in setting up a new office and orchestrating the hiring and so forth for those new positions?

Ms. Malone:

Absolutely. You know what, to be completely honest, I know nothing really about budgeting. But what I am good at is working with other people, taking direction, which is one thing that I would—actually, there's no question. If I were to do this, I would need help on understanding how to construct a budget, but I do expect there's so much experience in the two rooms that I'm looking at, and I would hope that I would be able to lean on some people with a little bit more experience, a little more understanding of what needs to go into that. I'm very familiar with working in groups and going back and forth between people. I have done some hiring back when I was—I don't know, this was a long time ago—at Squaw Valley Ski Corporation. I've worked in small offices and I've worked in large offices. To be quite honest, I don't have a lot of experience in that particular area, but I am smart and I learn fast and I can talk to people, and that is where I would have to go with that.

Chair Hardesty:

Okay. Another key component of the responsibilities for this job will be the biannual report that the Sentencing Commission is expected to present to the Legislature. It's probably one of the most significant responsibilities that the Commission has. Could you share with the Commission your experience and your abilities to prepare a pretty significant report like that and how you'd go about doing so?

Ms. Malone:

I feel like the answer to that is what I have done most of my career in terms of pulling together information from a variety of sources, discussing the primary issues that are necessary to present. I'm a good writer, I'm a good researcher, I'm organized and I can put these things together fairly quickly in most situations. That I have absolute confidence in my ability to do. That's the kind of thing I like to do, actually, is—and I've looked at the report and it's certainly very comprehensive, the most recent one, the January 2019 one. That I'm very comfortable with. That's essentially, in a lot of ways, what one does as a researcher and a writer, which is what an appellate attorney is. That part of this is very comfortable to me.

Chair Hardesty:

Finally, a key part of the responsibility of the Executive Director is to be a liaison between the Sentencing Commission and other branches of government and county and state elected officials, but I think most significantly other stakeholders like the Division of Parole and Probation, the Nevada Department of Corrections (NDOC) and their data systems.

Would you comment about your experience in that regard and what your familiarity is with the data collection systems in the state for criminal justice information?

Ms. Malone:

I don't have any direct experience with their data collection systems. I'm familiar with their websites. I've worked with Parole and Probation. I've worked with NDOC in a couple of situations as an appellate lawyer at the State Public Defender's Office. I don't specifically know what computer programs or whatever they use, if that's what you're asking, but I am comfortable with data management and things like that. Also, I'm very comfortable with the concept of talking to this variety of stakeholders and entities. That I think sounds like one of the most interesting parts of the job altogether, so in effect putting together the report, working with all the different entities, coming together to create and effect an overall philosophy and policy for the future is what's really interesting to me in this. I'm not sure if I'm answering the question right, but all of that enthuses me. It makes me excited. It sounds just so fun and so great.

Chair Hardesty:

Thank you, Ms. Malone. Senator Pickard, do you have a question for Ms. Malone?

Senator Pickard:

I'm curious to explore a little bit, if you would, your experience working with a board as opposed to an individual direct report. Have you ever had an experience where you've had to report to multiple people who ultimately hold the responsibility to oversee your work? Have you ever had any kind of experience like this?

Ms. Malone:

Yes, in the sense that when I was at the Civil Division in the Washoe County District Attorney's Office, I represented several of the county departments and different kinds of boards, the Juvenile Services Division, the Senior Services Division, the Emergency 911 Department. I'm blanking right now on everybody that I've worked with, but certainly I would have to make presentations to those boards, advise them on their concerns, what they could and couldn't do, drafting contracts for them, putting together an analysis of any kind of issue that they had and then reporting back to them and taking their comments and working with them at that level. Is that what you're asking?

Senator Pickard:

Yes, and then a follow up. How did you deal with conflict and disputes within the board? How did you deal with the differences of opinion that are sure to come?

Ms. Malone:

You have to take all perspectives into account. Working to what you know is going to get a consensus on something, that's certainly true, and in a lot of ways my position was not necessarily to resolve conflicts themselves, that's more the job of the members, but to present the different aspects and different analyses of those conflicts and make sure that everybody understands, I guess, what's involved on both sides of the given conflict.

Anne Carpenter (Chief, Parole and Probation):

I want to piggyback a little on what Justice Hardesty asked you about the data collection. Statistical information for the Division is always important, so could you elaborate on any experience you have on gathering—what does it say in here ([Agenda Item V A](#))? It says “the collection and aggregation of data.” If you don't have expertise in that area, would you hopefully hire some staff that would have that background?

Ms. Malone:

Yes, I would want to hire staff with that kind of background, anyway, at least one person, because I know that so many people know much more about that kind of thing than I do and have a lot more immediate experience with data collection. I actually did a lot of that, but back in the day before everything was so computerized. I know how to read Excel spreadsheets and things like that. I just don't have the familiarity with the particular systems that might be being used, but as an academic and as a researcher, I've done a lot of basically data collection, information collection, sorting, sifting, categorizing, that kind of stuff, but I would certainly want the background of someone with the computer savvy to be able to do that in a much more efficient way.

Kimberly Mull (Victims' Rights Advocate):

One of the main points on the job description says “collaborates with similar organizations in other states and at the national level to inform the Commission and its stakeholders of policies, procedures and organizational structures in use in other states to support improvement of sentencing reform in Nevada.” Do you have knowledge or relationships with any other organizations that do this kind of work already?

Ms. Malone:

Actually, that's one of the interesting things that's so great about this particular conference that I'm at. It's one of the things that we do. We are actually discussing all these things right now in terms of different states' approaches to, at this point, all sorts of different things, and particularly sentencing, pretrial release and mass revision of criminal laws and the whole concept of the criminal justice system, which is so much at the top of everybody's minds these days, but absolutely. Even if I don't know people particularly, I certainly know how to contact them, and there are numerous resources available to

anyone who is looking for other organizations that are involved in the same kinds of activities across the country, and just even last night at the Supreme Court reception. It's so interesting. It's so interesting what different states do, and I think that's one of the best parts about being able to have the kind of easy access that we do have to each other on a sort of national scale these days with the media and everything. So yeah, that I think is one of, again, the more exciting portions of the position would be the ability and the opportunity to expand into getting to know what other jurisdictions do and how they handle things and sort of a bottom-down approach or a top-down approach, different kinds of ways of thinking about all these issues.

Dr. Tyler-Garner:

I have a multipart question that comes directly out the statute regarding the statutory duties and purposes of the Commission. If the respondent could indicate yes or no whether or not they have experience with each of the tasks, I would greatly appreciate it. The first task is evaluating the impact of pretrial, sentencing diversion, incarceration and post-release. Any experience with that?

Ms. Malone:

With evaluating...

Dr. Tyler-Garner:

Evaluating the impact of pretrial, sentencing diversion, incarceration and post-release.

Ms. Malone:

No, I have not specifically done that. That's what I would look forward to doing.

Dr. Tyler-Garner:

No worries. Identifying sentencing disparities?

Ms. Malone:

I have done some of that as an appellate lawyer in terms of making arguments and briefs and things like that. Yes, I would just say that.

Dr. Tyler-Garner:

Recommending statutory sentencing guidelines?

Ms. Malone:

I have not had an opportunity to recommend specific statutory sentencing guidelines.

Dr. Tyler-Garner:

Supporting continuums of sentencing that include prevention, treatment or employment?

Ms. Malone:

I have certainly made those kinds of arguments and presented those kinds of analyses to a court in terms of as an appellate practitioner.

Dr. Tyler-Garner:

Any experience with data-driven sentencing practices or correction policies?

Ms. Malone:

I'm not really sure what that means, I'm afraid. Data-driven... I don't know.

Dr. Tyler-Garner:

Sentencing and corrections policies.

Ms. Malone:

I guess not. I guess I would have to say no, I'm not really sure what the question means, but I've studied Nevada sentencing statutes and things like that.

Mr. Marsh:

I'm not sure anybody we'll talk to this morning will be able to check all of those boxes, but one thing I did want to ask the applicant about is something she said in her answer to your first question, which was that her interest in the job was driven by a desire to expand her skillset and that she had an interest in criminal justice reform and sentencing reform at an intellectual and academic level. I just wanted to ask if there were any specific areas of criminal justice or sentencing that you think, if you were chosen for this job, should be a priority or that you have a specific interest in.

Ms. Malone:

I think the whole issue of sentencing reform is very complicated. I know that one of the goals of the Commission is to establish some sort of consistencies across the state and things like that. What I am interested in, in a lot of ways, is there are these debates

between having consistent sentences and having ones specifically tailored to an individual's offense and things like that, and one of the things I'm interested to do is to try to understand what works best in terms of preventing recidivism or minimizing recidivism and in studying the different types of approaches across maybe not just the United States but across internationally to understand how sentencing philosophies and sentencing principles might be more or less effective in terms of dealing with recidivism. That would be a specific interest of mine academically.

Darin Imlay (Clark County Public Defender):

I believe one of the biggest challenges you're going to have is trying to develop all of these things, whether it's strategic plans, whether it's performance measurements, diversion programs, sentencing guidelines throughout the state, because you're going to come across very conflicting interests and needs between, for example, Clark County and Washoe County with larger populations, as opposed to the rurals. How do you anticipate dealing with that challenge, as well as the legislation that you would propose between the conflicting interests of the large counties and rural counties?

Ms. Malone:

I think that's a critical issue because, of course, they do have very different concerns in some ways. I don't know that I could answer what kinds of legislation should be proposed until the sort of underlying analysis is done in terms of what those needs are in the various areas and how those could fit together and how they conflict and things like that. Ideally, we only write a law for one kind of place, although there are statutes that make different decisions based on population and things like that. Like I said, I'm not sure how I could make a recommendation without having done the underlying analysis. That's what part of the whole thing is, isn't it? Isn't part of the initial part studying what's going on and what everybody needs and what people's concerns are and the interests of the different jurisdictions?

Dr. Emily Salisbury, Ph.D. (Gubernatorial Appointee):

Ms. Malone, I want to thank you for your application and putting it forward. My question for you really is about if you could talk to me a little bit about, to the Commissioners about, your thoughts on Justice Reinvestment and some of the priorities that you think are really key and integral that this Commission should initially tackle.

Ms. Malone:

Honestly, I'm not sure. I don't understand what you mean by Justice Reinvestment.

Dr. Salisbury:

One of the major policies around the omnibus package that was approved in the last legislative session has quite a bit to do with some of the work that this Commission will be asked to do over the next couple of years, so I just was curious what your knowledge was on Justice Reinvestment generally as a sentencing strategy and sentencing reform across the country.

Ms. Malone:

I'm not familiar with the term, so that makes it hard for me to know exactly how to answer your question.

Dr. Salisbury:

That's okay if you don't know. I just wanted to get your take on the priorities that you feel are necessary for the Commission and just in terms of some of the things that we will be needing to tackle with sentencing reform.

Ms. Malone:

My understanding is that first there really needs to be sort of a statewide study and analysis of what the different sentencing discrepancies are that are concerning the Commission, so that is what I was envisioning sort of the initial work of the Commission to be going forward is to pull together the data and the concerns of the different stakeholders and put them all together to see what kinds of policies would be best to initiate going forward.

Tod Story (Executive Director, ACLU of Nevada, Inmate Advocate):

If you could speak to your view of the criminal justice system broadly and the overrepresentation of minority communities caught up in the system?

Ms. Malone:

Yeah, I think that's a big problem and I think it certainly goes far deeper than mere sentencing issues. It's a problem that I think our whole society needs to be dealing with better and better, and it reaches deep into so many different areas of our culture and of our economy and our political system overall. I certainly don't see sentencing reform as a panacea for that. It is one small part of an overall challenge that we face in this country and this culture. It is, however, an important part, so I see the sentencing issues as very important but part of a much broader issue when it comes to criminal justice as a system overall.

John Arrascada (Washoe County Public Defender):

The Sentencing Commission itself is going to be a data-driven Commission and the Executive Director acts as a liaison between the Commission and the Legislature. If you are in a position where the data regarding sentencing is contrary to your personal views, how would you present and approach the Legislature as a liaison under those circumstances?

Ms. Malone:

If the data is contrary to my personal views, I might have to reconsider my personal views. I believe in the science, so to the extent that the data goes one way or another, my personal views are not what I am presenting to anyone. I am simply, as you say, a liaison, a conduit basically for what the Commission resolves, and so it's my perspective that I will present what the data says. To the extent that my own personal views would be involved at all in terms of what I would present with the Legislature, I just don't see that being a problem or an issue. I'm interested in supporting the Commission and its work and seeing how it goes forward.

Ms. Brady:

What is your vision for programs, facilities or supportive services that are needed to reduce recidivism in light of recent legislative changes in the sentencing structure of nonviolent crimes?

Ms. Malone:

I think the alternative courts and stuff like that, alternative sentencing, the diversion courts, drug court, mental health, those are all so great, and the more that generally speaking we can facilitate those kinds of non-incarceration or suspended incarceration types of things, I think the better for everyone. Generally speaking, yeah, I think that really does help. I think those need to be supported by further study with mental health analysis, social support, economic support, things like that. One of the things that I've always noticed, again, just as sort of an observation, when people are going through drug court, one of the things that they are doing is at the same time that they're going through drug court is they're trying to wind themselves down biochemically from a drug addiction sometimes, and for them to be making consistent meetings and appointments and being on a fairly rigid track, which is what a lot of drug court expects, is particularly hard because of what's going on inside their brains at that point in recovering from the actual physical results of drug addiction. I think that sometimes some of the expectations need to be adjusted a little bit in those kinds of programs to make sure that we are supporting what people can actually accomplish to make it easier for them to rehab as opposed to fall apart in the middle of it. There's this saying that sort of relapse is part of rehab, and if we can minimize that, for example, by supporting them in a more effective way early on, I'm all for that kind

of stuff. I think that saves money. I think that saves time. I think that saves all kinds of stuff.

Keith Logan (Representative of the Sheriffs' and Chiefs' Association):

If you were the successful candidate, how long do you think it would take to determine your office structure, the needs to fully staff and operate with the complementary personnel to the things that you are not strong with and that would be able to help you to fulfill this job?

Ms. Malone:

I don't know. I guess maybe I would give myself somewhere like 3 to 6 months to kind of find people and get people on board and figure out how we want to move ahead.

Dr. Elizabeth Neighbors, Ph.D. (Division of Public and Behavioral Health):

Just to follow up a little bit on Mr. Arrascada's question, I'm wondering if you could briefly let us know what your experience has been interacting and working with the Legislature and providing recommendations and information to them, if you've had experience with that.

Ms. Malone:

I've certainly sat in on a lot of legislative meetings and I've—you know, I don't think I've actually presented anything specifically to the Legislature here. But effectively in a lot of ways it's the same as an argument before a court. It's being able to handle some answers from different perspectives. It's being able to present the material that you have in front of you and explain and advocate for your position.

Mr. Hicks:

I have just a couple questions. The first is Assembly Bill (AB) 236 which passed this last session is the one that created this position and the Department of Sentencing Policy. Have you read that bill?

Ms. Malone:

I have not read it in detail. I have read summaries of it and things like that.

Mr. Hicks:

One section in particular which would be very relevant for this Commission and your position should you be appointed Executive Director is calculating as was said before—let me back up a little bit. Collecting data is really what's going to shape the decisions of

this Commission and it's going to shape recommendations and what's considered. In section 7, for example, of AB 236 is evaluating fiscal savings due to the enactment of AB 236, which I think is very important, but it also contemplates identifying different variables or datasets that are important for this Commission to consider in making sentencing recommendations. My question to you is, beyond fiscal savings, what types of data or variables do you think are important to identify in the Department of Sentencing Policy and consider in shaping our sentencing in the State of Nevada?

Ms. Malone:

Other than fiscal?

Mr. Hicks:

Yes.

Ms. Malone:

Again, I guess I'm not sure what that's really asking.

Mr. Hicks:

Let me give you an example. This is an extreme example, of course, but the Legislature could easily take a policy position that would in effect empty our prisons. Now I'm not saying that would ever happen, but that could be done, and the fiscal implications of that would be tremendous because we would no longer be putting money towards that. But contrary to that, the public safety concerns might go through the roof or recidivism might go through the roof or crime rates might also increase. That's what I'm asking is can you see other data that is important to consider in addition to a fiscal promise of some new criminal justice reform?

Ms. Malone:

Yes. When you put it that way, of course. Now I understand what you mean. Yes, of course. Indeed, just to take what you said, recidivism rates, I think that's where—let me think. That's interesting; I hadn't thought about that before. Other variables... I know there are some, I just—as you said, recidivism is the main one that I can think of right now, public safety, obviously of course those kinds of issues. Yeah, I'm sorry, I'd need to think about that more.

Mr. DeRicco:

I have no additional questions.

Mr. McCormick:

The Director of the Department of Sentencing Policy acts as the Executive Secretary to the Sentencing Commission. I'm interested if you have any experience supporting or ensuring adequate staff support for a large commission like this. In conjunction with that, this Commission is subject to the Open Meeting Law as well as the Public Records Act. Do you have any experience or knowledge of those?

Ms. Malone:

I know sort of basic things about the Open Meeting Law and public records. I know I did an analysis of the Public Records Law back at the Washoe County District Attorney's Office a long time ago. Again, I don't really have a lot of experience budgeting, hiring staff, that kind of thing. I'm just going to be right up front about that. That's not something I've done. But I definitely am familiar with the Open Meeting Law and I'm familiar with public records and those expectations having worked at the District Attorney's Office as a civil attorney.

Chair Hardesty:

Thank you, Ms. Malone. I think that concludes our questioning under the format that we have been operating under. Would you like to make any final comments to the Commission before we close out your interview at this point?

Ms. Malone:

Again, I would like to say thank you so much for taking your time. I really appreciate it. I know that I have some holes in my background when it comes to this particular position, and I wanted to be just really honest about that and straightforward. I would certainly welcome any help that I could get from people and would look forward to working with groups and with people to set things up. I do, however, think that I have a pretty solid background and I have some skills that do work for the position. In final closing, I still really love working at the court. Thank you, Justice Hardesty. I guess with that, I'll hang up.

Chair Hardesty:

Thank you, Ms. Malone. I have requested that you not view the remaining interviews, but we will call you to let you know when the other interviews are completed. If you wish, you can watch the deliberations of the Commission following the interviews.

Ms. Malone:

Thank you. Actually I can't, because I have to go back to the conference, but thank you.

Chair Hardesty:

Thank you, Ms. Malone. We will turn to our next candidate, Ms. Gonzalez. She is here in Carson City. Commission members, while we're waiting for Ms. Gonzalez to come in, Mr. McCormick was able to look up that budget number that Mr. Marsh had asked about, and it is the paltry sum of \$813,919, approximately \$1 million. A little short, but in the ballpark, sort of.

Welcome to the Sentencing Commission, Ms. Gonzalez. We thank you for being available to visit with us today. The procedure that we're using is I'll ask you the same four questions we're asking each applicant, and then each of the Commissioners will have some questions to ask of you. Then after that, we'll move on to our next interview. We've sequestered the candidates, as you know, while those interviews are occurring, but you're welcome to return after we've finished our interviews and watch the deliberations from that point forward. On behalf of the Commission, I'd like to thank you for submitting an excellent letter and resume and sharing with us your qualifications and submitting yourself to the public interview process (Agenda Item V C). That's a bit of a challenge and maybe a scary process to be involved in, so we really appreciate and respect your participation. To begin with, we have all reviewed your letter and your resume, but I think I'd like to give you the opportunity to further introduce yourself and make any opening statements you'd like to make to the Commission, including any comment you have as to why you're applying for this position.

Victoria Gonzalez:

Thank you, Justice Hardesty. It is my pleasure to be here today, and I'm very grateful for this opportunity. I'm very excited for this opportunity, and it's nice to be here with the Commission. Just by way of a brief introduction, I was born and raised in Utah. As I was trying to find my way through life, I found my way to Nevada more than once. I ended up living here in 2005 to 2008 for a few years and got to know Reno and the Vegas area, and then I went to law school in Wisconsin, which I loved, and that's where I discovered my affection—and I will say affection—and my interest in criminal justice. The University of Wisconsin had an amazing clinical program, so very early on in my law school career I was able to get very active in representing clients. I got to know every aspect of the criminal justice system. I represented incarcerated persons, I interned with the district attorney, I did ride-alongs, I worked in the appellate process. Even after my clinicals were over, I'd established a relationship with my supervising attorney to continue work for anybody who needed it, even though I wasn't part of a technical program. After that, I found my way back to Nevada. My husband's work relocated us back to Vegas first, and because of my interest in public interest work and criminal justice, I wanted to get to know Nevada first before I started finding my place here in the criminal justice system. You can see from my resume that I taught for 3 years in Clark County, and I thought that was a great way to continue my work in public interest and then also get to know Nevada more and what I could bring to the state and what I could offer in terms of public service work. Then, I saw the opportunity here at the LCB and I took that as an opportunity to then

continue to grow my interest in criminal justice and public interest work. Now, this position seems to be the perfect way to bring all of this experience and my passion together into one place and for me to continue to help Nevada and contribute to this state, which I have really become affectionate towards.

Chair Hardesty:

Thank you. One of the numerous priorities in any new venture like this—but one of the issues will involve the staffing and assembly and administration of the budget. I wonder if you could share with the Commission your experience and background in setting up an office or in staffing an existing office and with the handling of budget processes within that office.

Ms. Gonzalez:

That is experience that I do not have directly as far as budgeting is concerned. In any endeavor that I have tried out, I jump in. I'm a self-starter. Some of this experience that I would say would be the most applicable is when I was teaching. The school that I worked in very much wanted teachers to lead the groups and lead teachers and lead the students when opportunities arose, and every time any of those came up, I took the chance. One of those opportunities was taking lead of the National Junior Honor Society, which no teacher wanted any part of in my school because it is an immense amount of work and it includes making a budget. There's a very limited amount of funds when it comes to school clubs and what we are able to provide for students, and the National Junior Honor Society had to plan community service events and had to plan dances and had to plan awards and had to work within the community. No other teacher wanted to take on that task, and I was ready because I knew it was important for the students, I knew it was important for the community, and so I put into place—I had to start from the ground up in figuring out how to organize these events, how to bring teachers together, how to bring students together. For my time there, I organized and executed all of these events, and my colleagues have told me that the binders and the organization that I put into place is still there. They tell me that what I built and what I organized and got going has helped future teachers to carry on those activities and to support those students, and I think those skills will translate perfectly to this. It's a larger scale, of course, but I think that demonstrates my grit and my intelligence and my willingness to jump in there. When I'm committed to something, you better watch out.

Chair Hardesty:

That would be welcomed, really. One of the significant responsibilities of the Sentencing Commission is to prepare and supply a biennial report that is outlining recommendations from the Sentencing Commission, and it covers a number of specific areas. I wonder if you could comment to the Commission about your experience in researching and preparing such a report, as well as your knowledge of the Commission's responsibility to the Legislature in what it must submit.

Ms. Gonzalez:

As far as my experience is concerned, I had direct experience in writing, editing and organizing the final report for the Advisory Commission on the Administration of Justice (ACAJ) last interim. I was co-staff on that, and I did ask lead counsel if I could take the lead on organizing that final report because I did want that experience of putting that together. Luckily, I had the work of the Crime and Justice Institute (CJI) and all the work that they had done for the ACAJ as the heart of that report, but there were things that the ACAJ was still responsible for including in our report that was in addition to the report that CJI put together and the Justice Reinvestment Initiative (JRI). I took that on. Because the ACAJ ended up meeting into just before the beginning of session, we were also in the middle of drafting at that point, but I knew that getting this report out was very important and also part of the statutory duties of the ACAJ, and so I took that on. I began by going through the minutes, going through and reviewing meetings and materials and using those to figure out which exhibits to include in the final report, and luckily we have had an amazing history of attorneys previous and commissions previous submitting reports and so I was able to reference those and use those as a model for what we are trying to maintain in this state and what information we're trying to perpetuate. Those were great examples of how to—and I really appreciate what this state is building and that we always have resources to look to each other and what people have done before us. We can just build on that and make it better. I was very grateful that I didn't have to reinvent the wheel, but I can bring my own to that. I had direct experience in helping with that report and then working with the Chair of the ACAJ and submitting it to him, and then if he had feedback we would work that back and forth. I worked with staff in putting that together for the previous interim. As far as the duties are concerned and what would be required in the report for this Commission, I know that they are laid out in AB 236 and AB 80, and so when it would come to compiling that final report for the Commission, that is where I would look to. First is to look to the statute and go through that checklist, and then of course work with the Chair and the Commission and whatever process you would like to do in working through that final report and making sure that we include everything that we have been mandated to include and making sure it is presented in a manner that will accurately represent the Commission.

Chair Hardesty:

A somewhat related issue has to do with the responsibilities of liaison between the Sentencing Commission, the executive and the legislative branch, and the county and state elected officials and stakeholders and organizations. A key component of that obviously is your familiarity with data systems that are used in the collection of data and organization of data. Could you comment about your experience with respect to the data systems used by the various criminal justice stakeholders in the state?

Ms. Gonzalez:

By being able to participate on the ACAJ, there were the subcommittees that were part of that, which was the Criminal Justice Information Sharing Subcommittee, which was exactly about this, and so I got to learn very quickly that every jurisdiction, every county, every agency in some way has their own system and then there are some systems that work across all of these. I think what's going to be really important for this position and for the Commission in general is to really get to know those systems and how they operate in place and how we can collaborate and bring all of those together as they exist, which I think is absolutely possible, and we can see that with the data that CJI was able to compile and present to the ACAJ. I think that is showing us what we are able to do, and so I can tell you that's my experience with that, and then I have heard presentations from the Central Repository. I don't personally know how complicated their system is, but I am aware of how complex it is. I got to know individuals not only from the Central Repository but other agencies and got to hear what their concerns are when it comes to their data and what it is like presenting or having to share data with either another agency or another jurisdiction, so I am aware of possible concerns in those areas. I think when it comes to approaching the data systems, it's going to be very important to reach out to all of those individuals and get to know their systems on their level, and then we will figure out a way to bring everybody together as far as the data is concerned. But I am aware that it is going to take some work to figure out and get to know everyone at their level first and not presume that there is one central place that we're just going to be able to get everything together, because the world is very complicated.

Chair Hardesty:

I'm going to start in reverse order. Mr. McCormick, do you have any questions for this applicant?

Mr. McCormick:

The Director of the Department of Sentencing Policy acts as the executive secretary to the Commission. Do you have any experience in supporting or ensuring adequate support for committees and commissions down to sort of a logistical level? Also, the Department of Sentencing Policy is going to be subject to the Public Records Act, NRS Chapter 239, and the Open Meeting Law, Chapter 241. What experience do you have with those?

Ms. Gonzalez:

I do have some experience with that by being able to participate with the ACAJ and the Sentencing Commission in the previous interims, as far as I was not the lead on drafting agendas or posting agendas or coordinating meeting rooms, but I did work very closely with counsel on both of those. I got to know at least what questions to ask and where to start. I'm aware of some issues that do come up in those types of areas and I know that that is an area—I know where to go to ask the questions and to figure out the information

and not to just jump in but be aware of those mandates that this Commission will be subject to along with the Director.

Mr. DeRicco:

As you are aware, you would be working along with the Commission in developing recommendations to propose to the Legislature with regard to sentencing reform. I'm curious as to if you have a thought on—I know we're not dealing with any data or anything here, but what is something that you see right now that might be at the top of that list with regard to sentencing reform?

Ms. Gonzalez:

I am very much aware of the population of the prisons at this point, and that was something that was highlighted in the CJI materials. I think that one of the important things that came out of that is identifying, are we looking at recidivism, are we looking at new offenders, and so I think both of those areas are really important to look at, and specifically then drilling down to recidivism. Then it would be looking at, if you're looking to make recommendations in terms of what to happen upon release and upon reentry and how to support that, that's a very big concern, but I think it's so complicated about whatever is going on as far as the population in our prisons, but that would be one thing to focus on that I think would be manageable and really gathering data and information from the community as well about what's going on at that level as far as helping reentry and helping to reduce recidivism, which would then in turn reduce the population of the prisons and then reduce costs.

Mr. Hicks:

I just wanted to say, anyone who's taught seventh grade can certainly handle this Commission and probably the Legislature as well. I just have a couple questions. You clearly have a deep interest that seems to have kind of been sparked in law school in the criminal justice system. You've referenced it several times. I'm just curious why. What drives that interest?

Ms. Gonzalez:

I think the criminal justice system is the thing that touches everybody's lives, and it's so complicated. It is not black and white. It is not straightforward. When I got to know about how the criminal justice system works, I feel this very deep concern for our communities and just people around us and not knowing what to do if your life ends up touching the criminal justice system, whether you're a victim, whether you are charged, whether you are an attorney or a law enforcement officer or a judge. It touches everyone's lives, and I think something so immense like that needs people who care and want to help. When I was in law school, I realized when I discovered this that I didn't have a preference about which side I wanted to be on, I just knew this was an area that is so important and that

needs good people who care, and so whatever opportunities came my way, I took them. I knew that whatever I had to offer, I would bring that. I just think it is so important and it's going to continue to be part of people's lives, and I would like to be a part of that because it affects everybody. At some point, we are all going to need a little help in one way or another trying to navigate the criminal justice system.

Mr. Hicks:

In your time when you were in law school and you were doing these different clinical programs, did you ever have occasion to work with victims of crime?

Ms. Gonzalez:

I did. I had an amazing opportunity that actually was not part of the clinical. After I completed my clinical work, I kept a relationship with my supervising attorney and he would pass me things that other students didn't want, or people called our office all the time at the law school looking for help and support. One time there was a gentleman who was a victim of a crime. He was at a bar and he had been severely beaten to the point where he didn't even remember what happened, and he was almost completely incapacitated as far as he lost his job, he couldn't work, he wasn't able to pay his rent. In Wisconsin, there was a way for victims to request money if they were a victim of a crime. However, at some point during the prosecution of the crime, he had been identified as contributing to his crime, to what had happened to him as a victim, and so they were denying him funds from this victim fund. He reached out to our office and asked, "Is there anything anyone can do?" Like I do with everything, I jump in, and like I said, you better watch out. I jumped in and I met with him. He lived out in a rural area outside of Madison, and so I drove out and met with him several times. I went and took pictures of the crime scene, I went and met with every individual that was involved in the decision-making process of just receiving funds from this victim fund, and then I requested a hearing for, at that point I guess he was my client and I was working under the supervision of my supervising attorney, and we went to this hearing and we presented his case. He got the funds that he deserved because they did realize that he was a victim of this crime and he deserved funds from the fund that the state had established.

Dr. Neighbors:

Going back to the questions about setting up your office and hiring, I'm wondering if you've given any thought to what the qualities and skillsets are of the individuals that you would be hiring with your staff of four and how you would go about defining that?

Ms. Gonzalez:

I have given that a lot of thought. I am aware at least of when AB 80 was working its way through the Legislature that some of the positions that were discussed were a research position and then two administrative supports. Again, not being totally familiar with the

budget system, I'm not sure how set we are on that, but I have been thinking about how I would approach that if that is what the budget is. I think what's going to be really important, number one would be that I would love to find staff that has the same passion that I do for this work, for Justice Reinvestment, for the Commission. I understand that might not be possible, but that's one thing I would look for. I'm going to be identifying and looking for self-starters, because we are going to be a new department and so we all need to be willing to jump in and talk and collaborate and come up with ideas. We all need to be willing to brainstorm and figure out how are we going to best serve this Commission. Communication skills are going to be key. We have to be able to listen to each other's ideas and then come to a final decision and realize not everything is going to work out, but we have to problem solve, and so problem-solving is going to be very important. Somehow in the interview and application process, I will try to suss out that work ethic, because, to me, grit will get you so far. Even if I find a great applicant that doesn't have the same passion or demonstration of criminal justice that I have, if I can see that an individual has grit and they're willing to get in there and get the work done, I think that's going to be the most important thing when you're trying to build something new like this and working for something that's so important.

Mr. Logan:

Have you ever failed at anything?

Ms. Gonzalez:

I have.

Mr. Logan:

How did that change you?

Ms. Gonzalez:

I get knocked down, and I have to say that every time I get knocked down, I remember that I got back up again. I'm not fresh out of school, and so my journey and finding my place in the world, and I would say my place in Nevada at this point, has been a journey. It's been trial and error, and nobody finds their place without falling down. Every time I have come up against something that didn't work out the way I thought it was, I first think, well, maybe it wasn't supposed to be that way in the first place. Then I think to myself, I got up. I got up, and I get up every time. I did think about that in preparing for this interview and thinking that this is not going to be seamless, and I know that my enthusiasm—I am here, and I will show up and I will be there every day, but this is going to be an experience. I promise you that I will get up every time. I am very self-aware and I take responsibility for my actions, and so that is also why I think every time I failed or didn't succeed in the way I thought I would, I can reflect and think, oh, this is what I could do differently, and so I'm going to get back up again and we're going to try again. I do think when you're building

something new and something as exciting as this, that's going to happen, but we're going to be okay and I'll get back up again.

Ms. Brady:

What is your vision for programs, facilities or supportive services which are needed to reduce recidivism in light of recent legislative changes in the sentencing structure of nonviolent crimes?

Ms. Gonzalez:

I think identifying the needs of the person are very important, and so I think when it comes to looking for the facilities and services you're going to offer, at that level, it can't be a one-size-fits-all. I think that is potentially an issue, and it's not always easy and it takes time to—whatever is sitting in front of you, how do we identify what this person needs to be successful? I think it is absolutely possible, and I think identifying those needs and not doing a one-size-fits-all is important. That might include how do we complete education, how do we provide education opportunities, how do we provide job guidance, and it could be how do we—it might be proposing systems or facilities in places that can help. How do you dress for an interview? How do you write a resume? How do you apply for a job? I think finding that is very important to then someone reentering the community and feeling like they're still a part of the community, and so whatever those services and facilities are, it is about helping that person. You're still a part of this community and we're going to help you figure out what you need. You have to make the choice, but here are the tools.

Ms. Brady:

What would be some examples of facilities that would address some of the things that you just mentioned, like education, life skills, job guidance?

Ms. Gonzalez:

I'm not sure if you mean a specific type of facility, but I would envision a general community center where there are computers, you have counselors that are available either on demand or someone who can make an appointment and follow up. I would imagine it would be those types of situations where someone might just need a place to come and look on a computer and look for jobs. I think that is something that would be possible to recommend and put in place, because I think when it comes to recommending facilities, the community has to know that this is possible, and so we start small and then we build up big from there, and then from there, if you can provide a place for someone to sleep or for someone to get more advanced, let's say, mental health support, then I think the more we can add the better. Ideally it would be something where you get multifaceted, and if you don't have all those resources there, then at least that place provides you the connections of the mental health person to call, the social worker if you

need it, whatever it is you need. That's what I would envision at a basic level is there's a place where someone can go just to ask questions like what do I do and who can I call.

Mr. Arrascada:

I have the proverbial first-100-day question for you. As you are aware, AB 236 goes into effect on July 1. This Commission is tasked with the duty of providing to the Legislature the data as reflected from the reforms of AB 236, which means that you have to have an office up and running effectively before that July 1 date. What will you be doing in—we'll call it the first 100 days because that's the proverbial question—the first 100 days to get the office up and running so that it may be effective in a short period of time to present data to the Legislature, including relationships with various stakeholders, the issues of fiscal savings versus public safety? What will you rely upon? Who will you reach out to?

Ms. Gonzalez:

I have been thinking about that first 30, 90, 100 days, and I get really excited. At the top of the list is meeting with the Chair and meeting with this Commission, because I think scheduling the next immediate meeting is going to be very important and discussing goals and plans for that, I think, at a basic level, and then from there it's going to be immediately doing what I can to get my team up and rolling, to get them on board, and then it's going to be what I would like to embark on, I'm going to call a listening tour of meeting and reaching out to every single district court, every single agency, every single stakeholder and getting to know them. I want to know about your data systems and I want to hear what do you have, and then connecting that with what CJI did as far as gathering that data. They have set up a great model, I think, for the potential of what we could achieve, but I think listening is going to be the number one thing to ensure that we are successful in collecting this data. After I've done that, then it will be continuing to facilitate those relationships and then getting that going, and then it will be reaching out to CJI because they have an implementation team in place to help launch this Justice Reinvestment project and to ensure our success. I talked with them before this position started but during session about, how do we know we're going to be okay after this, what do we do from here? They said, "We have a team in place that will come and will help," and I will be reaching out to them and working with them on making a plan on where do we go from here and how do we do this. I think that is exactly how we're going to be set up for success to make sure we have as much data as we can for that first set of recommendations and to get this Commission running.

Mr. Story:

My question is sort of a macro-view of your perspective of the criminal justice system and the overrepresentation of minority communities, people of color caught up in that system and how you view the purpose of this role if you were to get the job in effecting a different outcome.

Ms. Gonzalez:

I think based on the data that we saw come out of the CJI presentations, this is a very realistic concern. It's not one that is unique to Nevada; it is a concern across the country. I think what's very important is to look at what is happening here in Nevada. If we look at data and we have concerns about disparity, we really have to drill down and figure out why. I think it's very important not to make assumptions, and that's going to be part of working with the Commission, and that's exactly why we want to be data-driven, is working with the Commission and figuring out why is this happening. That might also take conversations with the community and conversations with every single decision maker in the criminal justice system because it isn't going to be just one aspect of that, and I think that's very important to recognize when you're looking at concerns in the criminal justice system. We don't want to get too bogged down with just sentencing. If we're just focusing on what someone got sentenced, that is going to give us a very concrete "this person got sentenced this much, this other person got sentenced this much, they only served—" that's only part of the equation. It also is going to include conversations with the community, conversations with law enforcement, conversations with the prosecutors and conversations with the courts. We need to know what's happening at every stage of the process, and that's not going to—we can't make assumptions about what's happening. We can see the data is showing us that there is an issue and there is a concern, but the way we're going to figure out how to address that will be to interact and have conversations with every single one of those stakeholders.

Dr. Salisbury:

I want to applaud your efforts just in terms of applying for the position, and you clearly have a number of leadership competencies to be in this role. My question really is a little bit more about—I'm wondering if you can talk about your leadership values and the characteristics that you bring in terms of your leadership character to the position.

Ms. Gonzalez:

I consider myself a very assertive person. I would also characterize myself as, in the clutch, I'm calm. Being assertive and calm is very important to being a leader. However, listening and communication is just as important, because I think being a leader is also about being transparent, and transparency comes with having strong, direct communication skills and being able to take accountability for actions. When it comes to the leadership decisions that I'm making, I'm going to make those in an assertive manner, they're going to be direct and they're going to be transparent, and I will take accountability for anything that does or does not happen. I am also going to expect that of my team. I'm going to expect my team to be assertive. You're going to be respectful, you're going to be calm, but you will be assertive too. We will communicate directly with each other and we will take accountability, and that way we're all leading. To me, that's what a leader does is you lift other people up. It's not about me; it's about me helping everybody else get us to that point. That does mean the leader making tough decisions sometimes and taking

responsibility for that decision, but it also means I have an eye on what the goal is. I will say that leading 240 seventh graders at various times throughout the day really taught me how to do that, how to stay calm and be assertive and communicate the expectations that I wanted from them and to get the outcome that we all wanted.

Dr. Salisbury:

Thank you. I just want to follow up with one additional question, if that's okay. Could you talk to me at all about—have you ever had an experience facing an ethical dilemma and how you handled that, because certainly in this position and the kinds of topics that we're talking about with criminal justice reform, there are many competing interests, and in my opinion, lives are at stake. If you could talk to me a little bit about how you've handled moral and ethical dilemmas in your past, that would be helpful.

Ms. Gonzalez:

I think, without being specific, a good example of that is drafting here in the Legal Division. We are a nonpartisan office and we receive bill draft requests from all agencies, from all of our Legislators, and what is important to me does not matter. If I've come across a request that maybe philosophically I disagreed with, it wasn't what I wanted, it was what was best and what was still constitutional and what would meet the request, and so sometimes that is something I wasn't fully prepared for when I was in law school, because in law school we get to discuss things in a classroom and you get to talk about the dilemma, but having that on my desk and knowing I still have to have integrity and show that I worked through the law and I wasn't myopic and I didn't have my own agenda to pursue means I ask questions, I'm fair, I'm rational, and sometimes maybe I do need to step back so I can reset and do what's best for the thing in front of me that is presented to me, and there are those times as you pointed out that we're going to be presented with those things, and I will be too, and it will be me sometimes maybe taking a step and taking a breath and focusing on what are we trying to accomplish here and how do we all work together on this, and again, it's not always about me; it's about what is the higher purpose.

Mr. Imlay:

Looking at your resume (Agenda Item V C), you served on a number of advisory commissions, and so I'm just interested in some of the issues that you saw and considered and possible solutions between the disparities between those with resources and the indigent when it comes not only to sentencing, but you mentioned the entire panoply of pretrial detention through sentencing.

Ms. Gonzalez:

Yes, I did get to observe, and this was what always stood out to me is the different—maybe culture is not quite the right word, but the different members of the community we need to represent in Nevada, and one thing I heard over and over again was that concerns

in the north are different than those in the south and are different than those in the rurals, and that is a real difference between the people of our state, but we're all part of Nevada. One thing I observed was hearing some of those concerns from stakeholders at these various meetings and the community when either a stakeholder or member of the community was feeling that their perspective was not being heard in terms of maybe they were from the north and they identified characteristics of the north that weren't being addressed and someone from the south might identify those concerns, and then of course the rurals, and I would never want anyone to feel like they were being pitted against each other. We're all here to help each other, and so it would be a way to figure out what are everyone's concerns and then how do we allocate resources and make sure that everyone is getting what they need and identifying the needs of each of those areas, because to your point about maybe underrepresentation, that's going to look very different in the north and the south and the rurals, and what's going to be very important is not a one-size-fits-all. It's going to be listening, collaborating, and not everyone's going to get what they want, but we're going to work together and find out what works for everyone and that's going to take care of everybody, but I think that's very important, and that's what I observed from sitting on all of these commissions was hearing everyone's perspectives and they want to make sure they're heard.

Mr. Marsh:

I think I commented earlier that nobody's going to have a perfect background for this position, and I thought about this all morning about how exactly to ask it, but in looking at your resume, one obvious thing that's not there is any experience as either a prosecutor or as a defense attorney, which I could see having its advantages of having not picked any sides. I really didn't want to ask a two-part question, but I will I'd like you to address that, answering two questions. One is, and obviously you had some experience when you were in law school which you've discussed, why did you decide after law school to become a teacher instead of, say, working for a district attorney's office or a public defender or going into private practice, and two, what would you do to make up for any actual or perceived lack of experience as an advocate in the criminal justice system?

Ms. Gonzalez:

I just want to make sure I got both parts of your question. One thing that when I was going to law school in Wisconsin, so to your first question about making that decision when I came to Nevada and I started teaching, one of the things when I was in law school, I developed, as I do wherever I am, I developed an affection for Wisconsin and I knew how Wisconsin worked. I knew how the public defender system worked. I had interned in a small county DA. I knew how that DA's Office worked and I had gotten to know Wisconsin and I knew Wisconsin. My husband's employment relocated us to Nevada, and at that point I knew I wanted to do criminal justice, but I knew I couldn't come to Nevada with my ideas about Wisconsin. I knew I wanted to work in the public interest and I knew I wanted to do criminal justice, but I didn't know anything about Nevada and I was committed to Nevada, but I wasn't sure where my place was going to be in the criminal justice system,

and so I thought as I'm trying to figure out and get to know the community, and I was in Clark County and that was different from being up here in the north, and I didn't know that at the time I was going to end up up here, but I knew I wanted to get to know Nevada, and what better way to get to know a community than through the children and through teaching and through a community that needs support? They needed teachers, and I saw a need and I thought, I don't want to sit waiting twiddling my thumbs trying to figure out what I wanted to do. I wanted to get out there and figure it out, and I thought that was one way to do it, and I think that's exactly why I'm here today is because I did get to know part of the Nevada community through teaching. I got to know what we look like, what are Nevadans, what does our state look like, what's important to us, what's not important to us, so that's how I approached that opportunity, and then when the first opportunity came up that I thought would be a good way to transition, that's when I moved up here to this position in the Legal Division.

As far as making up for a perceived lack of experience, I think that's exactly why I'm the strongest candidate here is because this position is multifaceted. It needs somebody who is very well rounded, and I think my resume demonstrates that. I'm not coming off of a very specific way of looking at the world, and not that that's bad, but I have a lot to offer, and I think by having touched each of these areas of the criminal justice system, I'm aware. I'm aware of challenges that a DA's office can face. I'm aware of challenges representing an incarcerated person. I'm aware of what a public defender can face, those challenges. I know I mentioned too in my cover letter that I did some ride-alongs. I got to learn very quickly what issues law enforcement faces when they are out patrolling and trying to serve our community in a different way, and so I think that's exactly what I bring is all of this and that I very much see this as a holistic approach and so I would be able to hear and empathize and understand each approach and then help all of us collaborate towards that bigger mission.

Dr. Tyler-Garner:

I have a standing question regarding statutory duties of the Commission and your experience supporting in some of those areas. Here are the following areas: one, any experience identifying sentencing disparities? Do you have any experience identifying sentencing disparities?

Ms. Gonzalez:

Not directly other than what I observed from the presentations that were presented when I was sitting on the Commission as staff.

Dr. Tyler-Garner:

The next is evaluating the impact of pretrial, sentencing diversion, incarceration or post-release. Any experience evaluating the impacts of those four areas? And those four areas were again, pretrial, sentencing diversion, incarceration and post-release.

Ms. Gonzalez:

Just to make sure I'm clear, do you mean direct experience about understanding what decisions and what that looks like, or the data that's collected?

Dr. Tyler-Garner:

Just any experience looking at the impact of some of those areas.

Ms. Gonzalez:

Yes. Something I learned when I was at the DA's Office in Wisconsin, I got to participate in every single aspect of those cases, including the pre-conferencing trials before we even appeared. I handled bond hearings, which was very enlightening. I was able to do a lot independently with the DA by my side, and so I would be in a bond hearing and I have the stack of files in front of me as a district attorney and I have to grind them out very quickly while the public defender is across from me and our clients were appearing by videoconference. We have to very quickly decide how do we negotiate bond. I can see the pressures that attorneys are under on both sides when you're trying to negotiate should we release this person before even talking about sentencing them. I got to experience that, and after that I'm with the district attorney as we are meeting with the public defender and his or her client and then negotiating how are we going to proceed with this case. I was able to benefit from the experience of seeing the decision making every single step of the way, and as I mentioned with doing the ride-alongs, seeing the decisions that are made there and seeing then at the end what that person is sentenced based on what happened at the bond hearing, what happened at the pre-conferencing trials, what happened during any sort of hearings that we had that were evidentiary and all of that leading up to that final decision and being aware of how that case evolved. There are a lot of places that can determine what sentence someone serves or does not serve.

Dr. Tyler-Garner:

The two other areas are data-driven sentencing and correction policies. Any exposure or familiarity with that?

Ms. Gonzalez:

My exposure to that is going to be what I observed by serving on the Commission by learning very much about what the specific concerns are here in Nevada. I learned that the prisons are full. We need money to either continue to offer services and support in the prisons or we need to offer services before and after release, and so I observed that data. I'm aware of that data as it was presented to the ACAJ and the concerns. I don't have those off the top of my head, but I am aware that those are itemized as they stand right

now and what concerns may be facing those types of the data concerns that you mentioned.

Dr. Tyler-Garner:

The final area: any familiarity with supporting a continuum of sentencing and correction options that include things like workforce development, treatment, prevention or health?

Ms. Gonzalez:

Again, I'm aware of what was presented during the data presentations of what options we have right now in Nevada and where areas are that we could grow, and so I'm aware that that information was gathered and presented to the ACAJ, and so I could draw on that in trying to get a temperature read of where we are, but I haven't personally interacted with any of those.

Ms. Mull:

First, I want to thank you for quoting Smash Mouth's "All Star" earlier. It made my morning. Second, do you have any relationships or know of any other organizations that are working to support improvement on sentencing reform around the United States or have any connections with any other organizations doing this work?

Ms. Gonzalez:

Just to make sure I understand the question, as far as like, it could be another sentencing commission, about what other states are doing in terms of how to reform sentencing?

Ms. Mull:

Correct, just any relationships or knowledge you can reach out to or get information from or collaborate with.

Ms. Gonzalez:

Yes, I was able to attend the Sentencing Commission Conference in 2018 and I was able to meet with other commissions, and I formed a relationship with the independent commission in Illinois, which is the Illinois Sentencing Policy Advisory Council. I was able to spend a lot of time with them, and they have a very similar approach that we are going to take as far as being data-driven for the purpose of developing policy, and so I look very much forward to reaching out to them. I met members from Oregon, from Utah, and we got to talk and compare notes on what all the concerns are, and that opportunity was a great way to learn not only what other states are doing and how Nevada is going to be doing its own approach, but I think those organizations are so collaborative. Participating in that conference, everyone was so willing to help each other, and so I know even people

that I did not meet directly at the conference, if I saw their name on the agenda that presented some information that I wanted to know more about, I know I could pick up the phone and call any of them and any time that we had to reach out to them or we were working with preparing for the Sentencing Commission. Everyone was always extremely helpful. This community is very supportive and collaborative, and Nevada participating in this, we're going to benefit a lot from working with other states, and I won't hesitate to reach out to Utah, Illinois specifically, to start asking questions and help build what we're trying to build here in Nevada.

Ms. Carpenter:

Stepping into a new position can be quite exciting but a little bit overwhelming, so my question to you is, do you have a difficult time saying no?

Ms. Gonzalez:

I do. But I do very much care about this work and I think that's not always a bad thing. I don't have it memorized perfectly, but those rules of improv are "yes, and" and so I don't see it as not saying no. I'll say "yes, and." "Yes, I want to do that, and we're going to do this or we're going to do this." But to me, it's about saying "yes, and." It's not about not being able to say no, it's saying, "Yes, and we're going to do this."

Senator Pickard:

Thank you, Ms. Gonzalez, for applying. I will say I notice that you graduated from the University of Utah, and as a graduate of Brigham Young University, I won't hold that against you. I'm kidding, of course. You've answered most of the questions I had, and your enthusiasm frankly is infectious. I wonder, though, if you could speak to undoubtedly—and I know having looked at the advisory commissions that you staffed and the breadth of the perspectives, if you will, that exist on those boards, how do you manage or how would you if you were selected for this position, how do you imagine managing the disagreements, the points of difference on how to approach these things? How do you manage that? How do you envision managing that?

Ms. Gonzalez:

It's something I'm very comfortable doing in various situations, and I think the number one thing when approaching a situation like that is making sure that someone is heard, and communicating the fact that someone has been heard doesn't mean you agree with them. You just make sure that their position is understood, and that might be—I think number one is restating each side of the position. That's the number one way, I think, when you've got those disagreements is making sure, because I think when disagreements arise, emotions then kick in and people start making assumptions and might not hear the whole perspective or might hear a snippet of something and think they know what the issue is. So, when it comes to solving an agreement, it's being curious

what's going on, what's the issue, and so it means asking questions and then it means restating and saying to each side, "Okay, so I just want to make sure I understand. Is this the concern?" and if it's not, you keep asking questions and you keep being curious. I think that's the way you resolve any disagreement and any misunderstanding is you be curious and by modeling that I would want then—I would hope that others would then follow suit and then we will approach disagreements by being curious, and that's how we're not ever going to all agree on the same things, but if we're curious about each other's perspective, we're at least going to come to an understanding and then we will at least be able to maybe come up with that third alternative that will help meet everyone's needs and concerns.

Chair Hardesty:

Does anybody on the Commission have any follow-up questions for Ms. Gonzalez? Seeing none, thank you very much, Ms. Gonzalez. Before you leave, I would like to give you an opportunity to offer any concluding comment. We will go on with one additional interview, and then when that is completed, you are welcome to observe the Commission's deliberations after that.

Ms. Gonzalez:

I just wanted to thank this Commission again for this. It really is an opportunity to meet you all. Your questions were exciting. It was a great way to meet each of you individually for the first time, and I can't tell you enough, and you can tell from my letter and from my presentation here today, my enthusiasm not only for this work but my affection for this state and for what opportunities we have are just so exciting to me, and even if I am not a part of this, I will be following and I will be here and I will be looking for opportunities to just be aware, and who knows what will happen in the future, but that's how much I care about this work. If I'm not a part of it, I understand, but I support this Commission and whatever you do in the future and in helping Nevada be the best Nevada.

Chair Hardesty:

Thank you very much, Ms. Gonzalez. Folks, we've been going at it a couple of hours, but we have an additional candidate who is waiting and has been sequestered, so I would like to take a very short break. Please, no more than about 5 minutes, and then we will return and conclude with that candidate.

THE CHAIR CALLED FOR A BRIEF RECESS.

Chair Hardesty:

We will ask Ms. Hua to come forward. I believe she is in Las Vegas. Is that right, Senator Pickard? Do you know?

Senator Pickard:

I do not know.

Chair Hardesty:

She was sequestered, but I hope she's not locked up. That would be unfortunate. Good morning, Ms. Hua. Thank you very much for submitting your application and your resume. I appreciate your interest in the Commission. We have been approaching the interviews this way: I've asked each of the candidates or applicants four questions, and then each of the Commissioners will ask you a question. We'll go around the room, and they may have subparts to their questions as we go. But I thought I would begin this way by just asking you to introduce yourself further and maybe offer any introductory remarks as to why you've applied for this position and what your interest is in the Sentencing Commission.

Ms. Hua:

I've been a criminal defense attorney mostly since 1996 and I enjoyed criminal defense, and I did do some prosecution on the administrative level, but it's gotten to the point where I'm more interested in the bigger pictures. I practiced long enough where I've seen what works and what doesn't and I have my own opinions about things, but I've always been curious about the empirical data behind certain policies, and the whole point of sentencing is kind of the end product of practicing criminal law. I have my own ideas and observations as to what works and what doesn't, and this job just sounded really interesting because it would allow me to kind of follow-up my curiosity about why we're here and is what we're doing working. And now I don't know who to look at because I don't see Justice Hardesty and I'm just looking at a choir of people, so I'm just going to look at Darin.

Chair Hardesty:

I appreciate the fact that we are doing this by video and that can be a challenge, but don't worry about not seeing me. Look at everybody down there. Eye contact is great. This position is a part of a bigger staff, or a staff, of four other people. I wonder if you could share with us your experience in setting up an office, organizing a staff and assembling and administering and managing budgets.

Ms. Hua:

The only practical administrative experience I have is from running my own law practice, and what it taught me was this: I believe that there are brilliant, amazing people out there, but if they are very unpleasant to be around, I don't want to hire them. There is a group of people who operate within a range of capability that is good enough, but what is important is how you treat people and how you treat each other, and I'm always amazed that people don't follow just the most basic thing they're taught in kindergarten, which is

would you want to be treated like this? Then okay, okay, then you're being a good person, but if you wouldn't want to be treated like this, why would you behave that way? So, I don't mean to go negative, but you know how as a kid your parents tell you to study hard, work hard, be the best you can be? That's great, but you also want to be somebody that other people want to be around, and also you want to hire people that are pleasant to be around and you want to set an example of how you should treat people. I'm not sure if I answered that question, but yeah.

Chair Hardesty:

So in managing your own law office, obviously you pay attention to the revenue and the expenses. Have you had any experience in dealing with governmental budgets?

Ms. Hua:

No, I don't. If I could just follow up on that, because I'm actually thinking about your question. I don't, but I guess there's a tension between people with experience and people without experience but with the intellectual ability to learn how to do something, and even though I'm sure I'm sitting in front of everybody who is far more important than I am, there were times in your life where you didn't know how to do something and you went and you learned how to, so I believe I have that ability. If I didn't, I wouldn't be applying for this job, because being a lawyer is very different from being an executive director, just like you when you became a judge. You were a lawyer and you didn't know exactly how being a judge worked until you became a judge and you learned, right?

Chair Hardesty:

I would say right, for sure. There is indeed a steep learning curve any time you go into a new venture, and it certainly is true from transitioning from being a lawyer to becoming a judge, no doubt. I wonder if you could also comment—one of the significant responsibilities of this Commission is to present a report of its activities to the Legislature. Could you comment about your writing skills and ability to write a significant report that would have to be presented to the Legislature?

Ms. Hua:

Well, I think it has to do with communication, whether it's written or oral, and as an attorney, when you're doing trials, you have to relay very complicated legal standards and the law to normal people, to laypeople, so it's a matter of being able to comprehend the data that you acquisition and then present it to people in a way that is understandable of all educational levels, and so I think if you could do that as a lawyer, you could do that with the Legislature.

Chair Hardesty:

I did have an additional question for you as a follow-up to your application (Agenda Item V D). I assume that you reviewed the requirements for the submission of the application, which included a requirement that there be two letters of recommendation. Did you happen to get a communication from the state staff that published the position notifying you that you didn't have a second letter of recommendation?

Ms. Hua:

I did. What happened was I asked Mr. Ozzie Fumo and Ms. Lisa Rasmussen, and they both indicated that they have. When I was notified that you didn't receive Ms. Rasmussen's recommendation, and this was the second person, a different person than I had submitted the initial recommendation to, I went ahead and notified Ms. Rasmussen with the new contact information and she said she would follow up. If it's too late, then should I leave now? Am I out of consideration? I'm really sorry. I do want to remind the people kind enough to write me a recommendation, but I don't want to bother them to the point where they write me a bad recommendation. I don't know. But if it's not too late, hopefully I can ask Ms. Rasmussen, which, by the way, I am not throwing her under the bus by naming her. I'm just explaining that I did the best I could on my end to procure the recommendation.

Chair Hardesty:

I wanted to go forward with your application, Ms. Hua, because you're not the only person who's ever identified a source of a recommendation or filed your application dependent upon the person to submit their recommendation, and then for some reason they don't do that. That happens with judicial selection, as a matter of fact, and so the Commission will have to discuss your explanation, but I wanted to give you the opportunity to explain that you had in fact reached out to a second person to recommend for you. I don't believe we've received that recommendation, but it doesn't appear that that is altogether your fault or responsibility, so I think we'll just take that into consideration in this discussion when we deliberate later. So no, I don't want you to leave yet. I don't think the Commission wants you to leave. We would like to hear from you on a number of other subjects and topics, and I thank you for your comments and explanation. What I'm going to do now is ask for each of the Commissioners to pose a question to you. We will begin with Senator Pickard.

Senator Pickard:

Thank you for applying. We appreciate the effort we know it takes to jump into these rings. I have two questions, if I may. First, I wonder if you could talk about your experience in terms of, as a hiring partner and having been in business for many years, when I look at a resume I notice that you've typically had, except for working for yourself, your experience working for others has been somewhat short, each of your experiences, and

it looks like you've had a breadth of experience, so can you talk about why you opted to work for such short periods of time, and then the second question is related in terms of that employment relationship. Have you worked where you have multiple direct reports, multiple bosses if you will, where you've had to try to work with disparate opinions and points of view and how you managed that?

Ms. Hua:

I think the longest stint I have done at one place was the Clark County Public Defender's Office. I worked there for about 6, 7 years. The reason I worked at other places a short time was, shortly after leaving the Public Defender's Office, I became a mother, and it has been really difficult to balance family life with legal life because I refuse to compromise neither one. So, the longest stint I have done really is going on my own and running my own office, and the ironic part was one of my last employment before I launched my own office was for this great old Vegas attorney by the name of Bucky Buchanan. He's quite a character and just a brilliant attorney, and he hired me when he had some health difficulties. So, when I worked for him, he actually was very honest with me and was very happy with me but he fired me when I got pregnant, and that's what forced me to launch my own law firm, and I told him afterwards that was the biggest favor he did for me because I wouldn't have done that. I would have just gone on and worked for other people. I miss him to this day. He's a wonderful man. I'm sorry, so your second question was?

Senator Pickard:

The second question was expanding the employment experience. Have you dealt with multiple direct reports where you had to manage disagreement, and how did you manage that?

Ms. Hua:

I've never worked for a group of people, but I have been in—worked as teams on different teams at the Public Defender's Office, and you know, I just spoke my mind and I listened to others and we just kind of got through that. I'm not known for my diplomacy, and I'm also known to be pretty honest, and the people either appreciate that or they didn't. There's a tension there, right, between getting along with people and working with people and just doing a good job and hoping that you will be judged on that. And also, I think I'm in your district. I think you used to play basketball with my husband, Patrick Ferguson. Do you have to sit out on this one? Did he let you win?

Senator Pickard:

No, I don't know your husband and I don't play basketball. It was not me.

Ms. Hua:

Really? Oh, I'm sorry. You look just like—never mind—a handsome gentleman that my husband used to play basketball with. There you go.

Ms. Carpenter:

In the recruitment it outlines that one of the duties is facilitating the collection and aggregation of data from the courts and etc., so my question is what education and/or experience do you have in the areas of collection and aggregation of data?

Ms. Hua:

As a lawyer, when you don't know something, you research it. You go and find out sources of materials that you need to find out what the law is, what the statistics would be in order to advocate for your client, and so a good lawyer researches, because nobody knows everything, right? You always need data and points of authority to back up your argument, so that's how I do it. And don't worry, I don't think you played basketball with my husband.

Ms. Mull:

One of the main bullet points under the job description is that this position should collaborate with similar organizations in other states and at the national level to inform the Commission and its stakeholders of policies, procedures and organizational structures in use in other states to support improvement of sentencing reform in Nevada. Do you have relationships with or know of other organizations in other states doing this kind of work?

Ms. Hua:

I am a member of NACDL, which is the National Association for Criminal Defense Attorneys, but I also have experience working with nonprofit organizations nationwide. I was the President of the Organization of Chinese-Americans a few years ago, and as the President for the Nevada chapter, you sit on the national board and you work with other presidents on a federal agenda, and it's a civil rights organization so there's a parallel between—even though it's not the same subject, there's a parallel between relationships you cultivate in order to promote the philosophies and the policies and the beliefs of your organization, so I have that experience.

Dr. Tyler-Garner:

I have a standing question regarding some of the statutory duties associated with this Commission and want to know if you have experience with four key areas, so if you could just—

Ms. Hua:

I'm sorry, if I have experience with four what areas?

Dr. Tyler-Garner:

The four areas that I'm about to note for you, so if you could just indicate yes or no if you have familiarity or experience with these areas. The first area is identifying sentencing disparities. Any experience with that? Identifying sentencing disparities.

Ms. Hua:

Well, I do that at every sentencing for my clients as diplomatically as possible, of course. I mean, you can't be a criminal defense attorney and not point out sentencing disparities, because you want the judges to be as uncomfortable as possible when you're doing sentencing for your clients. I'm just joking.

Dr. Tyler-Garner:

The next area is evaluating the impact of things like pretrial, sentencing diversion, incarceration or post-release.

Ms. Hua:

The impact?

Dr. Tyler-Garner:

Evaluating the impact of things like pretrial, sentencing diversion, incarceration or post-release.

Ms. Hua:

Only anecdotally. I experienced all of those procedures with my clients. When you ask what my experience is, are you asking whether I have studied those topics or have experience in?

Dr. Tyler-Garner:

Any familiarity looking at the impact of those areas.

Ms. Hua:

Oh, I'm very familiar. Listen, I'm really old. I've been practicing law forever, and it's been mostly criminal defense. So yes, I know exactly what you're talking about and I deal with it on a daily basis depending on what my client's needs are.

Dr. Tyler-Garner:

Okay, how about data-driven sentencing and corrections policies?

Ms. Hua:

That I don't deal with as much because that's the bigger picture. I feel the brunt of it.

Dr. Tyler-Garner:

Finally, just supporting a continuum of sentencing that includes factors or supports like prevention, treatment, workforce development, health? A continuum of sentencing and correction options that incorporate or include things like workforce development, treatment, prevention?

Ms. Hua:

Just for clarification, are you talking about looking into alternatives for sentencing? Like, in terms of looking for alternative resources to incarceration?

Dr. Tyler-Garner:

Any experience or familiarity with correction options or sentencing that include things like incorporating workforce development or treatment?

Ms. Hua:

Absolutely. You know how effective you are as a criminal defense attorney is looking into alternatives to jail or incarceration, and the more concrete of a plan you present to the judge at sentencing, the likelier you're going to get that alternate result for your client, and so I have offered at sentencing—I mean, I have set up plans and offered to drive the client to that rehabilitation center right after sentencing, and I have done so too, and a little bit of the—and I've had clients that had to brave my driving, but they survived and they've gone on to be delivered to wonderful places like WestCare, Hope for Prisoners. There's a whole bunch of resources out there that you just kind of have to tap into and hound them to get a bed.

Mr. Marsh:

I'm going to read from the letter that you did have from Assemblyman Fumo which says that "Jeannie will be able to easily identify variables concerning criminal justice that are not currently collected or shared across agencies of criminal justice within the state" (Agenda Item V D). He said that about you. I'm sure he was parroting language in the announcement or in the statute, but I did want to follow up on that in two areas. One would be, as a long time criminal defense attorney, are there any areas where you see that there are gaps in knowledge or in data collection? Any particular areas where you think that we need to collect data? That would be one, and two would be, I think you just admitted that data wasn't your strongest point. How would you try to make up for that?

Ms. Hua:

I have a lot of acquaintances and friends in the nonprofit world, and one part of nonprofit survival is the collection of data for the purpose of writing grants. There are all sorts of reasons why people would need data. It's not just to set policy or look into statutory changes. It also is needed by nonprofits, so I would tap them. I also have friends—well, I think they're friends, they may see me not—but in the government sector too that will lend me a hand and give me assistance and advice.

Mr. Marsh:

Okay, and how about gaps in data in this state regarding sentencing or criminal justice?

Ms. Hua:

You know, just off the top of my head, for me it would be the mental health area and how it should affect sentencing policy, but that's just off the top of my head.

Mr. Imlay:

Just for clarification, Ms. Hua and I did start at the Public Defender's Office I believe on the same day back in 1996. We were never on the same team, but we did start on the same day.

Ms. Hua:

And he was judging me even back then, so this is nothing unusual. I'm completely joking. I'm delighted to see Mr. Imlay again. He is just a wonderful person.

Mr. Imlay:

My question is, most of your career you've been reactive to policies and things that are imposed on you as a defense attorney. What strengths do you have or weaknesses do

you think you'd have to overcome when it comes to developing these policies and figuring out how they're going to actually impact the practitioner as well as our clients, both those with resources as well as those that are indigent?

Ms. Hua:

The closest experience I have to—essentially you're asking me—it's one thing to have opinions as a criminal defense attorney, but how realistically—how practical can I be about policy, because when you're setting policy, you're also talking about resource allocation, which is you have to be practical about what's available, what's not available and how it affects not only the defendant but also governmental agencies and social services. The closest experience I have about implementation of policy and the effect of policy is—and I have to mention this, but I'm a pro tem judge in justice court, and when I'm sitting on the bench, I'm not a criminal defense attorney. I am judge for the 4 hours of the calendar, and I have to consider what the existing law is and apply it in the most consistent and fair way possible, and so I'm not just considering the defendant, I'm also considering the victims, I'm also considering consistency in the rulings, I'm also considering the staff and whether or not my rulings are legal, are able to be carried out, and I'm considering the jail. So, if what you're trying to gauge from your question is every applicant's ability to grasp the big picture and all the players within it without being subjective and applying prejudices, we all have prejudices. It's impossible to avoid it. I think the closest experience I've had is through substituting as a judge, and I do my best.

Dr. Salisbury:

I want to thank you for your application. I guess my question really is around what you think the priorities might be for the Commission around Justice Reinvestment and AB 236 that are going to be very much a part of the discussion and the debate and dialogue that we'll be having as a result of legislation that just of course recently passed with criminal justice and sentencing reform. So, I'm just wondering what you feel like are the priorities and what experience you have and knowledge around the Justice Reinvestment process.

Ms. Hua:

So, you want to know what I think the priorities of the Sentencing Commission should be? That was part of your question?

Dr. Salisbury:

Yeah, absolutely.

Ms. Hua:

I think it should be—I'm assuming the big picture and everybody's goal here is to find out what works and what doesn't work and what is the smartest way to allocate resources.

You know, people who are normal and not have their lives involved in the criminal justice process can have different viewpoints from people who are involved in it every day, and the people involved in it every day have very different opinions as to how resources should be allocated, and I guess that has to do with, first of all for the people, for y'all on the Commission, it's about having to work together even though you may have different values and different priorities and finding a common ground, which I'm going to assume is resource allocation, because I think in the end it's the money that talks. That's just reality. But what generally I noticed is that alternatives to incarceration, when it's the wise thing to do, tends to be cheaper, so it's my hope that's something that could be looked at, but I guess what I'm a little confused about is policy is very different from implementation of what's available out there, and so you can have a ton of sentencing policy that emphasizes on alternatives to incarceration, but if the alternatives to incarceration aren't out there then you can have all the policies in the world and it doesn't do any good. Did I answer your question? I feel like I'm just rambling at this point. I apologize.

Dr. Salisbury:

You're fine, absolutely. Thank you.

Mr. Story:

I'm curious about your broad view of the criminal justice system and the overrepresentation of minority communities and people of color caught up in the system, and if you were to get this job, what you could do to effect a different outcome.

Ms. Hua:

I'm sorry, my hearing is really awful, but did you mention people of color?

Mr. Story:

People of color, minority communities. Yes.

Ms. Hua:

I'm sorry, can you clarify your question?

Mr. Story:

Sure. So, we know that the body of individuals who are incarcerated in Nevada is overrepresented by people of color and minority communities. If you were to get this job, what could you do to effect a different outcome?

Ms. Hua:

Well, okay. I guess by your question, you're telling me that this position has influence over the policy, and I guess my question back to you is, I thought it's the Commission that decides on the direction that the sentencing policy should go. I thought this job includes me, if I were lucky enough to get it, gathering data and letting the data and following the data instead of having preconceptions. If you just want to know my leanings, I am pro-rehabilitation, which is probably on the left. Is that what you're asking?

Mr. Story:

Both, kind of yes and no. So, certainly the data that will be collected should drive the policy. We know that past data has indicated that there is an overrepresentation of minority communities incarcerated, so considering the past trend and the future outcomes where this position is going to be in the middle of that process, I'm curious to see, moving forward, how that role could effect a different outcome in the future.

Ms. Hua:

Well, I'd be very conscious of it. I mean, you do see overrepresentation, but to me, that's veering—I don't want to say veering away, but now it's starting to go towards how and where the law is enforced, which involves players not necessarily—well, let me put it this way. I went to the University of Chicago. I still don't know how I got in there, but I lived in a dorm with other college students, and the particular dorm I lived in unfortunately was like modern-day Babylon, which was very eye-opening for a kid straight out of Cincinnati, Ohio, and if the police kind of just strolled down the hallway of my dorm, they would have found many crimes versus strolling down lesser desirable areas of the south side, so that's kind of how you're aware of a disproportionate population of minorities in the criminal justice system. It has to do more with enforcement and the location of the enforcement than—well, no, it does—you're right, it does have to do with sentencing policies too, because it also has to do with the cause of it, and when you're considering the cause of it plays into sentencing considerations as to how to address the root of the problem. Sorry, this is just me thinking out loud. Lucky you.

Mr. Arrascada:

The role of Executive Director includes being a liaison to the various stakeholders in the criminal justice system and most significant to the Legislature itself. Could you please share with us your experience in either lobbying or being involved in a legislative process or Nevada's legislative process?

Ms. Hua:

When you say lobby, I'm assuming you mean speaking directly with representatives about a policy or a law or a stance that I have on something. I have lobbied on behalf of the

Organization of Chinese-Americans as to implementation of policies for civil rights for Asian-Americans nationally. I also have lobbied on behalf of different type I diabetes associations because my daughter was diagnosed, has had it since she was three, and it's not—I wish more people just spoke to their representatives because I think the legislative body wants to know what their constituents want, so it's not like a big—it probably shouldn't be the big deal that it sounds like, because it has to do with just communicating what you think should be necessary as a citizen.

Ms. Brady:

What is your vision for programs, facilities or supportive services which are needed to reduce recidivism in light of recent legislative changes in the sentencing structure of nonviolent crimes, and then next, would you be willing to relocate to Northern Nevada, if you haven't already answered that?

Ms. Hua:

No, no, you're the first one to ask that. I love Hope for Prisoners. I hope Hope for Prisoners gets millions of dollars so they can help more people when they come out of prison to find jobs and adjust to society and not reoffend. I wish there were more organizations like that, and I'm sure they're out there, but Hope for Prisoners is the one that really stuck out on my mind because Jon Ponder helped a bunch of my clients, and I've always been grateful for that. When I heard about this job on the NACJ listserv—that's the Nevada Attorneys for Criminal Justice—and I was led to believe that it was negotiable. However, if that is a misunderstanding, then yes, I am willing to move to Reno or Carson City. I do have three children and a husband that I'm quite fond of, so we would have to set up a separate household or I'd have to take lots of trips. If you want something badly enough, you make it work.

Mr. Logan:

Thank you for being here. What is your experience with the rural portions and the rest of the state and the rest of the criminal justice system beyond just criminal defense work?

Ms. Hua:

Well, I went to the Cowboy Poetry Festival in Elko this past year, but I do drive out to the rurals, and my husband works for the Nye County District Attorney's Office. He's a prosecutor, and so—and I know you asked what my experience is beyond criminal justice system, but I do want to point out that I really love those drives out to the different prisons up in Northern Nevada. It's just ridiculously beautiful, and the buildings are so interesting and historical. You don't get that as much here in the south. When I went to the Cowboy Poetry Festival, I learned that there are far more commonalities than I had first realized about people who live in rural Nevada and Asians. There is an emphasis on hard work and on family and lots of poetry on how much we miss our parents, and the music was

awesome. So, there's a real resilience in rural Nevadans that I'm not sure is appreciated at other places. I think it's the last bastion of history in Nevada, and I think the people living out there deserve to be respected just as much, if not more, for how tough it is these days to live and survive in a smaller town than I think people who live in a larger town give them credence for.

Dr. Neighbors:

It's a pleasure to meet you. Earlier you mentioned that you felt one of the gaps in how we handle sentencing had to do with mental health variables and that you very much want to explore concerns about that. Can you elaborate a bit on that and tell us how you would help us as a Commission explore those concerns?

Ms. Hua:

I think the very first question anyone should ask about the role of mental health in the criminal justice system is what is your core value? Should someone with mental illness be held accountable for their actions? How much compassion or a lack of compassion do you have for assessing the intent in the conduct of someone who has mental health issues? If you say, "I don't care," and I'm not saying you, but if you say, "I don't care, people should be held accountable to their actions," then I guess your opinion would be there isn't much of an issue, but considering first of all just the difficulty of representing someone that has problems comprehending, recollecting, having a compromised recollection and with communication problems, guiding them through the criminal justice system can be daunting. This includes mentally ill people perhaps also being—that's counterbalanced with mentally ill people causing safety concerns just by you representing them and the interest of the community from being protected from them, so obviously the safest way to protect the community unfortunately is to incarcerate them. But should we be incarcerating them if they're just so out of it they don't even know what they've done? There's no great solution to anything because, frankly, just solutions for mental health, mentally ill people—we're talking about psychotropic drugs that don't cure, the side effects are awful and the people taking the medication are really just taking them for the benefit of everybody else around them rather than themselves, so it's a really awful area to look into, but a necessary one, and I just pointed out just a few considerations when you're assessing what policies should be formed when dealing with them.

Mr. Hicks:

I have no questions.

Ms. Hua:

Oh, thank god.

Mr. DeRicco:

I do have a question. In your opening statement before this Commission, you said you had your own opinions and things about what works and what doesn't with regard to sentencing or sentencing policy reforms here. Can you give me just a real simple example of what you feel works right now and maybe something that doesn't work, and I may have a follow-up after that.

Ms. Hua:

Thank you for the warning. I think that it's not enough just to have resources in the form of counseling services, counseling programs, social services for defendants. It's also the quality of the people running it and the quality of the people working there. I mean, it sounds like almost an impossible combination. It's so difficult to get these types of agencies properly funded, up and running, and now you need good people inhabiting it, but I believe that's what works, and you can pay people to work but you can't pay people to care, and even if you can pay people to care, after 5 years, 10 years, 15 years, they are so burned out, so—wow, I'm sounding extraordinarily negative. And so, I don't know what the solution is, but I do know part of the solution is just the quality of people involved in the alternatives to incarceration. Did I answer your entire question?

Mr. DeRicco:

Partly, but I guess I can follow it up here. What I was trying to get at here a little bit is, you indicated you had your own opinions about things and you gave me an example. You're talking quite a bit here about the quality of people that may be around or involved in these types of programs, but the follow-up to that is, let's just say that your opinion on this topic, the quality of people, that's what matters, but as we start going through and we're looking at data and empirical evidence, it says completely opposite with regard to what your opinions might have been on a certain area and the statistics would say otherwise. How do you deal with that with this Commission?

Ms. Hua:

Well, I would deal with it by—see, that wouldn't be a difficulty to me, because my opinions are my opinions. I will follow the data, and I guess my job, from my understanding of the job description, is to present the data to the Commission and have the Commission decide. What I will tell you is, I understand what you're saying. If the data is contrary to what I believe in, what would I do with that? I would follow the data. As a pro tem judge, we use the NPR—that is the Nevada Pretrial Risk Assessment—and it is an invaluable instrument that tells you whether or not somebody is going to come back to court, whether or not they may reoffend if you let them out pending while their case is still active, the likelihood of them leaving the jurisdiction, and I follow it, some arguably to the point where I got in trouble for it. I follow it because experts were hired to figure out the algorithms based on data collected nationally on other jurisdictions that looked at statistics of

offenders who absconded, who didn't abscond. They looked at the age factor, they looked at how young they were when they first offended, they look at their scope, their priors, and so I believe that. Why do we spend all this money if we're not going to follow it? So I followed it, even if there were times where I kind of went, ooh, really? Okay, this person scored a 1, I'm going to let them out while their case is pending. This person scored a 12. Wow, he is staying right where he's at right now. So, I have no problems doing that.

Mr. DeRicco:

Thank you.

Mr. McCormick:

I'm good, no questions.

Chair Hardesty:

All right. Thank you, Ms. Hua. What I'd like to do to conclude, as we've done with each applicant, is give you an opportunity if you'd like to offer any concluding comments and then the Commission will undertake some deliberations here about how to proceed with the recommendations to the Governor. Anything you'd like to conclude with?

Ms. Hua:

No, just thank you for your time and it was good meeting everybody, and have a good day.

Chair Hardesty:

Thank you very much. I appreciate you being here and participating in the process.

Okay, let's turn to item VI on the agenda, which is a discussion regarding recommendations that we might make to the Governor here. I'd like to open it up for general discussion to the Commission members about how you'd like to proceed. I do want to get a sense of what people are thinking, and then I've asked Mr. Anthony to do a little bit of research here on this and how we can proceed legally in presenting names or a name to the Governor. I can call on each Commissioner or you can just offer your remarks, but I would like to hear from Commissioners about how you'd like to proceed. As I mentioned earlier, we can submit three names, we can determine the qualifications of the candidates, maybe perhaps even including submitting one or two names instead of three, or however you wish to proceed. I think we have some options there. Ms. Carpenter, would you like to begin?

Ms. Carpenter:

Absolutely, Justice. I think we've spent a lot of time today asking questions and listening to their answers, and I feel very comfortable with going forward and at least recommending a few people.

Dr. Salisbury:

I think we might need to start with a discussion of, again, following up on the recommendation letter just for procedural purposes for Ms. Hua, if we could have a discussion about that and if we think we should still proceed because of the procedural limitations, potentially.

Chair Hardesty:

Do you have an opinion on that? I think the issue is reasonably clear. The application notice required two recommendations (Agenda Item V A). One of the recommendations was not submitted and we therefore had her explanation to the Commission (Agenda Item V D). One of her recommenders apparently didn't follow through. So, how would you propose the Commission proceed in light of that and the requirements in the posting?

Dr. Salisbury:

It's a tough call in my opinion, because obviously we don't want to hold her to somebody who didn't submit a letter on her behalf, but if the rules are that clear and that explicit, I have a tendency to sort of fall on the side of going along with the procedural guidelines, and I don't actually see those as guidelines. I think it's actually pretty clear, so I'm of the opinion that the application actually does not qualify to move forward.

Chair Hardesty:

Okay, any other views or comments on that issue?

Mr. Marsh:

I agree, we should deal with this issue first. To answer your question to Dr. Salisbury, I kind of go the other way, which is I see how these things happen when you're relying on another person, so I feel a little bit of sympathy for the applicant. On the other hand, I wanted to ask you, Justice Hardesty, you mentioned that there was some precedent in how this was dealt with in judicial screening panels, and I just wondered how they had dealt with that.

Chair Hardesty:

The judicial selection process is very rigid in its requirements, and the position that's been

taken by the Selection Commission has been, if the application fails to meet the requirements as posted, the Commission doesn't consider it. They'll notify the applicant that you can offer an explanation, much like we've done here, but then ultimately depending upon the explanation, the Commission has generally said we don't consider that to have been compliant and so they've rejected those applications. Mr. McCormick, is that about right?

Mr. McCormick:

Yes, Chair.

Chair Hardesty:

Mr. McCormick assists in staffing the Selection Commission along with Robin Sweet. Senator Pickard, did you want to comment?

Senator Pickard:

Yes. Thank you, Justice Hardesty. I tend to agree. I feel badly that someone else has affected her in a negative way, but I do believe that the instructions, the requirements, were fairly clear, and we can't completely absolve her of the requirement to follow up. My inclination is to reach out to Ms. Rasmussen to see if she felt like she wanted to, but I do believe that the instructions were pretty clear and we probably should follow the precedent that you've described.

Mr. Arrascada:

I just had a question. When was the applicant notified that her application was deficient of the letter of recommendation?

Chair Hardesty:

I don't have personal knowledge about that. Ms. Hartzler?

Angela Hartzler (Secretary, Legal Division, Legislative Counsel Bureau):

I spoke with Ms. Hua on October 31.

Ms. Mull:

It may be just because I'm just out of grad school, but with scholarships and stuff, if we didn't have our two letters of recommendation and we got notified that we were short one, you better be sure that we were finding someone to write us one very quickly, so I don't think that there's an excuse for not having one.

Chair Hardesty:

Okay. The Chair will entertain a motion to determine the qualification or disqualification of Ms. Hua based on the application.

Mr. Hicks:

I would move that we disqualify Ms. Hua. The application is very clear. It uses the firm language of "must submit" and it also states clearly, "Incomplete applications will not be considered" (Agenda Item V A). I found her explanation to be deficient, and so I would make the motion that we disqualify her from consideration.

MR. HICKS MOVED TO DISQUALIFY THE APPLICATION OF JEANNIE HUA.

MR. LOGAN SECONDED THE MOTION.

Chair Hardesty:

Is there any discussion on the motion?

Dr. Salisbury:

Just a point of clarification. Do we need to procedurally just justify that all applications are either deficient or sufficient, just for procedural purposes?

Chair Hardesty:

I don't think that's necessary because there are no recognized deficiencies on the other two applications.

Dr. Salisbury:

Okay, thank you.

Chair Hardesty:

All right, any other discussion or questions before the vote?

THE MOTION PASSED UNANIMOUSLY.

Chair Hardesty:

The motion passes, so let's turn to a discussion of the remaining two candidates. Is the Commission prepared to move either or both forward to the Governor?

Mr. McCormick:

As far as moving them to the Governor, I have a concern. In AB 80 which amended this, in subsection 5, part 2, it says, "The Executive Director of the Department must be appointed by the Governor from a list of three persons recommended by the Sentencing Commission." If we only send two, are we compliant with that requirement?

Chair Hardesty:

I asked Mr. Anthony to look into that question. Mr. Anthony?

Nicolas Anthony (Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Yes, in looking at the plain language of the statute, it does say "from a list of three persons recommended by the Sentencing Commission." However, beyond the plain meaning language, courts can turn to statutory interpretation, and in this case, the Legislature is presumed to act intentionally and purposefully and did not include the language "not less than three persons." That's the first rule of statutory interpretation. Another rule is that statutes should be read so as to avoid an absurd result, and the fact that this body posted the job posting not only once but extended it for a second time, and again this body was left in the position where they did not feel there were enough qualified applicants, based on that reading, it would render the statute somewhat vague and ambiguous, and thus this body could go forward with less than three. Then lastly as a rule of statutory interpretation, statutes should be construed to promote the policy rather than defeat the legislative policy. Clearly here the policy is set by the Legislature to forward qualified candidates, and that's what this body has been doing. They've been vetting qualified candidates, and in this case less than three would be permissible.

Chair Hardesty:

Okay. Based on the advice from legal counsel, does anybody wish to offer any comments or suggestions about whether you wish to present or forward one or both of the remaining applicants' names to the Governor?

Senator Pickard:

I will just state first that I have found Mr. Anthony's advice having staffed the Senate Judiciary Committee to be impeccable, and on that basis, I appreciate the statement about the intent. It is my personal opinion that we have one very qualified candidate, and

that would be Ms. Gonzalez. I have no problem recommending both names, Ms. Gonzalez and Ms. Malone, but if it were my druthers, I would suggest we recommend Ms. Gonzalez alone given the stark difference in my interpretation and my impressions of the interview.

Chair Hardesty:

Okay, and on that score, Mr. Anthony, we discussed the possibility of ranking these applicants. Is that something the Commission could do as well if it were going to pass both names?

Mr. Anthony:

I believe the Commission could certainly rank the applicants. In the rules that you previously adopted (Agenda Item VI A-1), it says that the names will be forwarded without ranking. However, you are free to amend those rules, and thus you could choose to rank them should this body so desire.

Chair Hardesty:

Okay. Well, let's get some other viewpoints on how people would like to proceed with these, or any of these.

Mr. Arrascada:

Just point of order, are we in a position, or is it legal counsel's opinion, that we could submit one name to the Governor as opposed to two names?

Mr. Anthony:

Yes. Based on my earlier analysis given the statutory interpretation, you could reach an absurd result if this body felt they were not comfortable forwarding more than one name. Like I said, you've been through two recruitment processes. It could be that this Commission never came up with three names if you put it out for posting and posting and posting, which would further frustrate the statutory purpose, which is to get this new Executive Director in place and the new Department of Sentencing Policy up and running. Therefore, yes, it is our position that you could forward one name if this body so chooses.

Mr. Arrascada:

With that, I would agree with Senator Pickard and I would suggest that we submit one name, Ms. Gonzalez. She showed a passion and a commitment and knowledge that I think are probably beyond any of our own personal abilities and experience, and I would think she would serve our board well as a very unbiased Executive Director who is data-driven and focused on the justice reinforcement act.

Dr. Salisbury:

While I agree with the other comments that have been made about there being a clear indication of Ms. Gonzalez's qualifications and excitement and enthusiasm, and I feel very similarly, I get a little bit worried having been on a number of search committees for academic positions that by only putting forward one name, if we don't put forward two names, the possibility that maybe Ms. Gonzalez changes her mind, maybe there's different things. You never know what can happen in these sorts of situations. So, I think we need to entertain the possibility that by only putting forward one name, this could be a failed search.

Ms. Brady:

If we put forward two names, does the Governor have the opportunity to have any other information from which to make his decision, like to watch their interviews or anything like that?

Chair Hardesty:

Well, if he approaches the appointment the way he's been doing with the judicial candidates, he'll get their application, resumes and so forth, and then he has been conducting interviews of the candidates himself, and certainly this is available to him. I don't know whether the Governor's Office watches it or not. For this particular position and this Commission, this is a first-time event, so I don't know what steps he would take. But I know that in terms of the judges, he's been interviewing those candidates, each one that's been submitted, and has taken it very seriously, very much like with Governor Sandoval and the other governors who've been involved in these processes have done.

Mr. Marsh:

I agree with what's been said so far, but I also agree with Dr. Salisbury that while we have a clear front runner, and at least based on today's interviews it's pretty obvious who the top selection would be of most of the Commission, I also think we have two qualified candidates, and so my proposal would be to change the rules to allow us to submit them both but to rank them.

Dr. Tyler-Garner:

I just want to go on the record noting my concern about defaulting to a second-ranked candidate.

Chair Hardesty:

I'm sorry, I'm not sure I'm following your point. Could you expand on that a little bit?

Dr. Tyler-Garner:

I would be concerned if the selection happened as a result of someone turning it down so that the only other option was to default to the second-ranked candidate.

Chair Hardesty:

Let me ask a follow-up question. I'm inferring from your comment that your preference would be to submit the best and call it a day, and if it doesn't work out, we repost, which is an option.

Dr. Tyler-Garner:

Correct.

Mr. Hicks:

I would echo what Dr. Tyler-Garner just said. I don't want to speak for everyone in the group, but I think it was pretty clear who the consensus choice is here. I wouldn't be surprised if it was unanimous, and so I think as a Commission, if that's the case, we should go forward with that candidate. The other remaining candidate to consider, in my opinion, lacked significant preparation for this position, and so there's nothing that says—like I pointed out at the beginning, this is a very important decision and this is going to be a very important role as we shape sentencing in our state moving forward, and so if this Commission is the majority or all consensus on one person, I say we put that one person forward.

Mr. Imlay:

I'm in agreement. I believe that we should submit just Ms. Gonzalez. If for whatever reason she decided not to accept the position, then I would be open to reopening the position again, but I think we should submit just the one. Clearly it appears that Ms. Gonzalez is the preference of the entire Commission. At least, that's the way it appears, and she did seem highly qualified, including her enthusiasm, but her qualifications I think clearly make her the most qualified for the position.

Mr. Story:

I would concur with that opinion, that we forward the nominee and consider just the top candidate that seems to be consensus.

Chair Hardesty:

Mr. Story, would you like to make a motion?

Mr. Story:

Sure, a motion to forward the candidate that appears to be the consensus candidate of the Commission to the Governor for consideration for the position of Executive Director of the Sentencing Commission.

MR. STORY MOVED TO FORWARD THE NAME OF VICTORIA GONZALEZ TO THE GOVERNOR FOR CONSIDERATION FOR THE POSITION OF EXECUTIVE DIRECTOR OF THE DEPARTMENT OF SENTENCING POLICY.

Chair Hardesty:

One question I have for counsel—and in fairness, I too was concerned about the preparation of Ms. Malone for the interview and the research that one might expect one would undertake prior to an interview of this type, and so is it necessary or is it appropriate to indicate that the Commission would conclude that that candidate is not prepared or qualified for this position and then act on Mr. Story's motion? I just wonder if we shouldn't make a record about our concerns that maybe this candidate is not entirely prepared for this position.

Mr. Anthony:

I believe the record is clear. As we discussed earlier, this body did adopt rules earlier and those rules state that this body will rank applicants according to their number of votes (Agenda Item VI A-1). In this particular instance, it sounds like the body is ranking applicants in terms of the number of votes with Ms. Gonzalez receiving the majority, so I think you're free to proceed.

Chair Hardesty:

Okay then, is there a second for Mr. Story's motion?

SENATOR PICKARD SECONDED THE MOTION.

Mr. Arrascada:

I just want to be clear. The motion is that the Commission as a whole submit to the Governor the name of Victoria Gonzalez to become the Executive Director, is that correct?

Chair Hardesty:

It is correct. Well, let me ask the maker of the motion. Mr. Story, is it correct?

Mr. Story:

Correct, yes. I referred to consensus candidate, but that would be Ms. Gonzalez.

Chair Hardesty:

Okay, and is that right, Senator Pickard, as the second?

Senator Pickard:

Yes, Justice. I will continue to second that motion.

Chair Hardesty:

Okay, great. Any other questions or comments?

Mr. McCormick:

Do we need to amend rule 2(a) to allow ourselves to do this?

Chair Hardesty:

Mr. Anthony does not believe that is necessary. All right, any further discussion on this motion?

THE MOTION PASSED UNANIMOUSLY.

Chair Hardesty:

Thank you all very much for your work on this. I put on the agenda item VII as potential topics, dates, locations for future meetings just as a placeholder, if you will, for us to be thinking about these issues, because obviously if we are fortunate enough to get an Executive Director, our next meeting will be staffed by that Executive Director. It makes sense to have this conversation with the Executive Director present and participating in that meeting, but I wanted to share with you some conversations that I had with Mr. Callaway about the direction of the Sentencing Commission and then get your thoughts

and reaction. For those of you who've sat on previous advisory commissions or sentencing commissions with Chuck Callaway, you know that he is a person who prefers to narrow the scope within a realistic time frame of what can be accomplished, and I share his point of view, especially now. It seems to me that since AB 236 goes into effect on July 1 and will only be in effect really for 6 months, our report is due actually before the 6-month period expires. We're really only in a position to begin assessing the impact of AB 236 for a very short time, so what I believe we should be doing is focusing on some of the topics that prepare us for this. So, for example, one of the topics here is "provide training regarding sentencing." Well, for the Commission's benefit, I would expect to have the judicial education section of the Administrative Office of the Courts make a presentation at our next meeting regarding the steps that they are taking to address and answer these requirements in AB 236, and then with respect to "facilitate and develop a statewide sentencing database and evaluate pretrial, diversion, incarceration and post-release programs," those to me, as well as the second one, "evaluate effectiveness of fiscal impact of policies," require both the input from the data systems that we have in place as well as the fiscal calculations that can be made that help us connect the dots. I don't think it's realistic to expect this Commission to come forward to the 2021 Legislature with a whole bunch of recommendations without having the data in place and the systems in place to conduct those evaluations, and I think that the biggest contribution that this Commission can make in the interim is to focus on those bullet points and how we can develop those systems so that we can begin those measurements once the bill has been in place long enough for anybody to understand how it's going to work.

Those are my thoughts and the Vice Chair's thoughts. I'd like to throw it open to the Commission members to see if any of you have different suggestions or other suggestions that we can take, and then obviously this will be a big topic at our next meeting when the Executive Director has hopefully been selected and we'll be able to put that conversation out there with her presence. Any comments or observations about what I've conveyed?

Ms. Brady:

I think I agree on the one hand. On the other hand, I think all of us in this room have spoken with a number of people across the state regarding this issue and there may be, at least for the next legislative session, I think, the issue of reentry and transitional housing and mental health services. The thing I'm concerned about is if we don't approach the Legislature with some sort of request for infrastructure to that regard that we could miss opportunities or would delay the progress that perhaps we could make with sentencing reform in the long run.

Chair Hardesty:

And in that regard, some of you may be familiar with a recent audit that was done at NDOC regarding reentry opportunities. I want to get that audit out to the Commission so you have the benefit of that study and what was done there.

Dr. Salisbury:

I don't have the exact citation—normally I would have it—but I think it's important also. A recent large-scale report just came out by a very well-known and well-respected criminologist on the Justice Reinvestment Initiatives in other states. I'd like to distribute that to the Commission for educational purposes just so that we sort of understand—the basic conclusion is that there has actually been very little effect in terms of reducing recidivism across a number of different states, and this is for various different reasons. Part of the issue is that Justice Reinvestment has become re-branded over a number of years to neglect the community investment that is necessary, and what one of our candidates really talked about kind of quite well was that it's great if you have all of these policies in place, but if you don't have the infrastructure of community development and community programs, it becomes really difficult to have significant reductions in recidivism, and so I just would like to—I'm happy to give that to anybody or to you to distribute to the Commission. I think it would be good for us to have for educational purposes so that we learn from the mistakes of other states and come up with the best solutions for our jurisdiction.

Chair Hardesty:

Absolutely. If you will send it to me, we'll get it distributed to the Commission members and consider agendaing a discussion about that, absolutely.

Senator Pickard:

If I might take a moment, this happens to be something that I'm working with a couple of other legislators on, this very issue of developing infrastructure, particularly as it has to do with proposing construction of additional halfway houses and other places, because one of the bottlenecks to reentry is—we still have people in prison who have been paroled but there's no place to put them, and so this is one of the things that we've been talking about on a bipartisan basis to address directly in the next session. This is obviously outside the scope of this Commission, but it is something that many of us are already looking at. So, I can promise that there will be, whether it comes from me or someone else—we want the people that can actually make it happen to carry the bill, and that is an ongoing discussion that we are currently having as we speak.

Chair Hardesty:

Thank you, Senator. I appreciate that information. One of the things I wanted to mention to the Commission, and it's relevant to what we're talking about here, I think I mentioned to you at our last meeting that the Governor and legislative leadership and the court had submitted a request to the Bureau of Justice Assistance requesting that we be approved or considered for approval of funding to assist us in implementing AB 236. What you may not know is that, and I haven't seen much publicity about it, our request was approved. It is a significant, significant contribution of funding available to the state to be able to

determine how to prioritize and apply these resources that are now available to us. The interesting question is who should make that decision. Is that the Governor's responsibility? Is that this Commission's responsibility? I think we have to identify what resources are available and how best to apply them, but we have them available to us and we need to have a discussion with our Commission about what that consists of and who can take advantage of it. I just wanted to let you know that we've been approved by the Bureau of Justice Assistance. I don't know the exact dollar amount, but it is substantial, and as you know, in terms of staff time when CJI provided its work in the work up to the last legislative session, they put in more than \$1 million in staff time to do data collection and data work for us. I'm going to request that CJI make a presentation to the Commission to outline what resources are available to us to help work with and implement some of these issues that are set out in the statutory priorities. Did anybody else have any comments or suggestions along the lines of the Commission's priorities?

Mr. Marsh:

I just wanted to ask if there was a timeline on deciding how the federal funding would be used.

Chair Hardesty:

Not to my knowledge. There doesn't seem to be. We've been approved, so now how it gets implemented is the next step, and I think this Commission needs to hear from them about that process and identify what resources are available and how they can be directed. I've been notified, literally yesterday, that the Sentencing Board, which is a board that consists of the Governor, the Attorney General and the Secretary of State, is convening on November 25 and they have asked for a presentation to be made by CJI and by Assemblyman Yeager on this very thing, so we'll get a glimpse of that. I assume that meeting would be publicized or could be videoed. I'm not certain, but I wanted to alert you to it. I think it's November 25 at 8 a.m. and it will be one of the agenda items on that meeting concerning this very topic.

Any other comments before we wrap up for the day? I want to thank everybody for your diligence and participation. We will be in touch with some—we'll kind of do a poll about when people are available, but I wouldn't expect our next meeting to be until certainly after the first of the year. We'll need time for the Governor to make a determination about Ms. Gonzalez's appointment, and then assuming that she is appointed, then we'll start scheduling and reaching out to you about your availability for a meeting.

Is there any public comment before we close? Seeing none, thank you very much. We are adjourned at 1:13 p.m.

RESPECTFULLY SUBMITTED:

Jordan Haas, Secretary

APPROVED BY:

Justice James Hardesty, Chair

Date: _____

DRAFT

Agenda Item	Witness/Agency	Description
A		Agenda
B		Attendance Roster
Agenda Item IV	Jordan Haas, Secretary	Draft Minutes from the September 25, 2019 Meeting of the Nevada Sentencing Commission
Agenda Item V A		Posting of the Executive Director Position
Agenda Item V B	Kerry Malone	Application
Agenda Item V C	Victoria Gonzalez	Application
Agenda Item V D	Jeannie Hua	Application
Agenda Item VI A-1		Executive Director Selection Process
Agenda Item VI A-2		Voting Tally Sheet
Agenda Item VI A-3		Voting Ballot
Agenda Item VII	Nicolas Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau	Presentation on the Duties of the Nevada Sentencing Commission

OVERVIEW OF DUTIES OF DEPARTMENT OF SENTENCING POLICY AND NEVADA SENTENCING COMMISSION

NEVADA SENTENCING COMMISSION

FEBRUARY 19, 2020



DEPARTMENT OF SENTENCING POLICY

- Created by Assembly Bill No. 80 of the 2019 Legislative Session
- Provisions specific to Department codified in NRS 176.01323 and 176.01327
- NRS 176.01323 provides that the Executive Director
 - Serve at the pleasure of the Nevada Sentencing Commission
 - Be licensed attorney in Nevada
 - Devote entire time to duties of the Department
 - Authorized to employ or enter into contact

DUTIES OF EXECUTIVE DIRECTOR NRS 176.01327

- Oversee functions of Department
- Serve as Executive Secretary of Commission
- Report to the Commission on the functions and related issues of the Department
- Assist the Commission in determining necessary and appropriate recommendations in carrying out the responsibilities of the Department
- Establish budget for Department
- Facilitate the collection and aggregation of data from the Courts, Department of Corrections, Division of Parole and Probation of the Department of Public Safety and any other agency of criminal justice
- Identify certain areas in criminal justice data that are not currently collected or shared
- Assist Commission in preparing and submitting a comprehensive report
- Take other actions necessary to carry out powers and duties of the Commission

NEVADA SENTENCING COMMISSION

SB 451 of 2017 Legislative Session

- Established Commission within the Legislative Branch
- Supported by staff of LCB
- Codified in NRS 176.0133 to 176.0139

AB 80 of 2019 Legislative Session

- Established within the Department of Sentencing Policy
- Amended membership of Commission
- Requires Commission to hold first meeting by September 1 of each odd-numbered year

DUTIES OF COMMISSION

NRS 176.0134

- Advise the Legislature on proposed legislation and make recommendations related to sentencing
- Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing
- Recommend changes in structure of sentencing using certain considerations related to sentencing policies
- Facilitate the development and maintenance of sentencing database
- Evaluation impact of pretrial, diversion, incarceration and postrelease supervision programs
- Identify areas of disparity in sentencing related to race, gender and economic status
- Propose and recommend sentencing guidelines
- Provide recommendations to the Executive Director concerning the administration of the Department

AB 236 (2019)

- To assess and track outcomes as a result of the enactment of AB236 by collecting data from the Department of Corrections, the Division of Probation and Parole of the Department of Public Safety and the Central Repository
- Track and assess outcomes with respect to savings and reinvestment
- Identify gaps in criminal justice data tracking and make recommendations to fill in such gaps (NRS 176.01343)
- Identify a formula to calculate costs avoided (NRS 176.01347)
- Provide staff to Nevada Justice Reinvestment Coordinating Council and receive recommendations from Council

DELIVERABLES OF COMMISSION

- Comprehensive Report of the Commission (subsection 11 of **NRS 176.0134**)
 - January 1 of each odd-numbered year to the Legislature
- AB236 Report (paragraph (f) of subsection 1 of **NRS 176.01343**)
 - Second week of the Legislative Session to the Governor, the Legislature and the Nevada Supreme Court
- Statement of amount of costs avoided (subsection 2 of **NRS 176.01347**)
 - December 1 of each fiscal year to the Governor and the Interim Finance Committee
- Report of projected amounts of costs avoided and recommendations for reinvestment (subsection 3 of **NRS 176.01347**)
 - August 1 of each even-numbered year to the Legislature and the Governor

ACTIVITIES OF DEPARTMENT

- Regular communications with the Chair
- Currently housed at the GFO
- Office space secured at 625 Fairview, Suite 121, Carson City, NV 89701
- Building infrastructure of Department
- Website construction: sentencing.nv.gov
- Meetings with members of the Commission and other agencies and stakeholders
- Regular communications with CJI

BUDGET OF DEPARTMENT AND COMMISSION

- Staff includes: Executive Director, Staff Attorney, Administrative Assistant 4 and Administrative Assistant 2
- See attachment for details of budget
- Budget Kick-Off February 27



QUESTIONS?



CRIME AND JUSTICE INSTITUTE

Implementation of Assembly Bill 236

Nevada Sentencing Commission

February 19, 2020

CRIME AND JUSTICE INSTITUTE

Justice Reinvestment Initiative



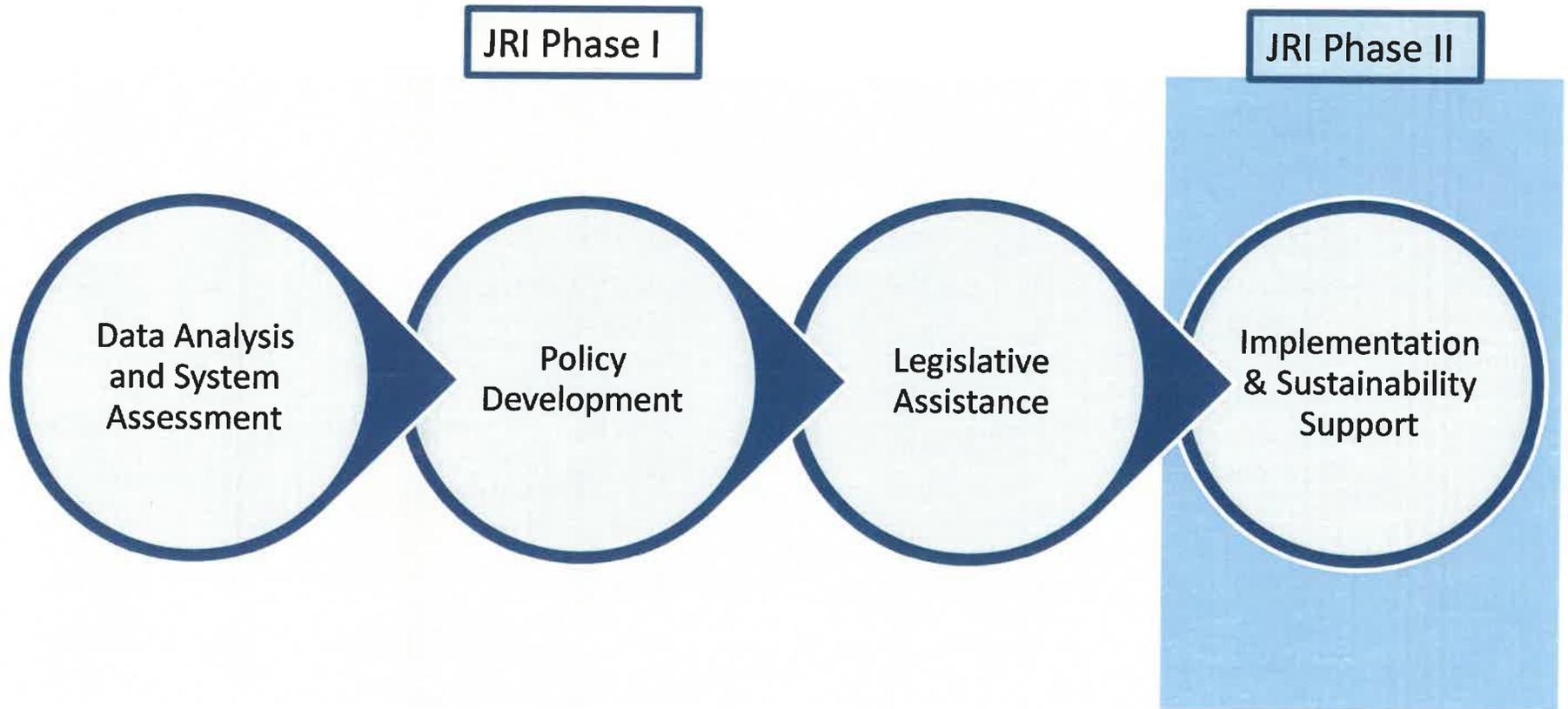
CRIME AND JUSTICE INSTITUTE

A Division of Community Resources for Justice

Justice Reinvestment Initiative

- Public-private partnership between the Bureau of Justice Assistance and the Pew Charitable Trusts
- Develop comprehensive approaches to reduce crime, cut recidivism rates, and shift resources to more effective public safety strategies
- Uses data to inform policy and drive decision-making, research to implement best practices, and data to measure progress

Justice Reinvestment Initiative Technical Assistance: Key Components



CRIME AND JUSTICE INSTITUTE

AB 236 Implementation

Phase II: Implementation

Perspectives on Justice Reinvestment

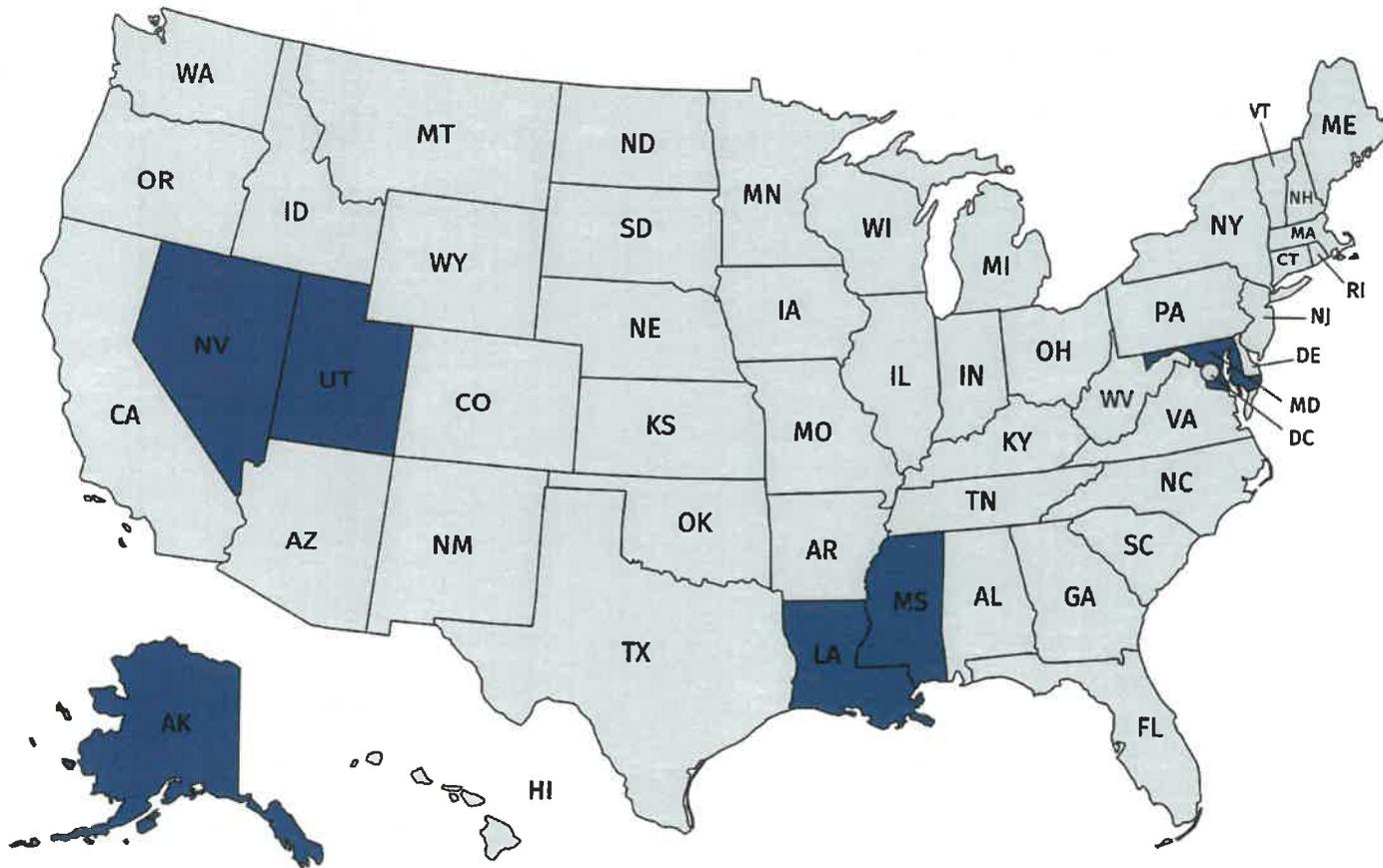
State leaders: “Yes! We passed an awesome set of policies that will transform our criminal justice system.”

Agency leaders and staff: “Uh oh...now we have to figure out how implement the policies.”

Good News

There is help available for the next couple of years.

CJI Technical Assistance



CJI Technical Assistance

- Develop and monitor implementation plans
- Train agency staff and other stakeholders
- Develop and/or revise agency policies to align with new requirements
- Measure impacts and communicate results
- Assist with reinvestment strategies

Implementation Stages



At each stage, communicate the why, the what, and successes

Lessons Learned from Other States

- Frequent cross-agency communication is essential
 - So is communication within your agency and to the public
- Engagement of all criminal justice stakeholders is important
 - Identify challenges and concerns and develop plans to address them together
- Use data to identify areas of progress and concern
- Ongoing staff training and quality assurance helps ensure staff are doing what was intended
- Share successes (big and small)

Nevada's Implementation Plan

- Creating and monitoring an implementation plan can help ensure effective rollout of AB 236
- Nevada's is divided by each section of AB 236. Each includes:
 - Key components of the policy
 - Agency responsible
 - Possible CJI technical assistance
 - Timeline and status of implementation

Implementation Assistance: Parole and Probation

- Training for parole and probation officers
- Graduated sanctions and response to violations
- Risk and needs assessment and case plans
- Performance measurement and quality assurance

Implementation Assistance: Department of Corrections

- Training for staff
- Risk and needs assessment
- Medical release
- Reentry
- Performance measurement

Implementation Assistance: Sentencing Commission and Department of Sentencing Policy

- Performance measurement
- Averted costs and reinvestment
- Local Justice Reinvestment Coordinating Council
- Required reports

Questions?

Barbara Pierce

Director of Justice Initiatives | Crime and Justice Institute

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Disclaimer

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Nevada 2019 JRI Implementation Plan

A.B. 236

Effective: July 1, 2020

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

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
			<ul style="list-style-type: none"> ○ How will the missing resources be made available ● Provide research support, if needed ● Develop and distribute Practitioner Guide 	
<p><i>Training for judges on behavioral health needs and intellectual or developmental disabilities</i> (Sect. 12-13)</p>	<p>Training for judges on behavioral health needs and intellectual and developmental disabilities in the courts that use presentence investigation reports for the purpose of imposing a sentence</p> <p>Removes the requirement that presentence investigation reports contain recommendations (as defined)</p>	Courts	<ul style="list-style-type: none"> ● Assist in finding training options as needed for judges on behavioral health needs and intellectual and developmental disabilities. Potential Behavioral Health training topics to suggest: <ul style="list-style-type: none"> ○ Differences in diagnoses, what MI looks like in different populations/people ○ How MI manifests ○ Impact of incarceration on mental stability ○ Vicarious trauma ○ Continuity of care ○ Access to community treatment (alternative placements) ● Develop and distribute Practitioner Guide ● Work with in-state partners as they develop and distribute training on new laws to judges and lawyers 	
<p><i>Training for Parole and Probation Officers</i></p>	<p>Requires training in evidence based practices for facility and community correctional staff</p>	Department of Corrections	<ul style="list-style-type: none"> ● Train staff on evidence based practices 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
(Sect. 89 and 96)		Division of Parole and Probation	<ul style="list-style-type: none"> • Train and complete train-the-trainer for staff in Principles of Effective Intervention, Effective Case Management, and Core Correctional Practices • Assist in finding an experienced partner to provide training on interacting with people who have experienced trauma, victims of domestic violence, people with behavioral health needs, and people with intellectual and developmental disabilities; potential training topics: <ul style="list-style-type: none"> ○ Signs and symptoms of mental illness (MI) ○ Vicarious trauma ○ Cultural competency as it relates to MI and expression of MI ○ Suicidal ideation and self-injuring behavior vs. suicidal gestures • Work with NDOC and DPP to develop quality assurance procedures and performance metrics 	
<i>Graduated Sanctions and Response to Violations</i>	Requires DPP to adopt a written system of graduated sanctions for officers to use when responding to technical violations	Division of Parole and Probation Parole Board	<ul style="list-style-type: none"> • Develop and distribute internal policies on graduated sanctions • Create a graduated sanctions grid 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
<p>(Sect. 18, 33, 35, 101)</p>	<p>Limits the situations in which a revocation would result in loss of good time and serving the rest of a sentence to: new felony or gross misdemeanor (changed from violation of any rule)</p> <p>Limits the amount of time a probationer or parolee can be sentenced to serve a temporary revocation for a technical violation – up to: 30 days for the 1st temporary revocation, 90 days for the 2nd, 180 days for the 3rd, full revocation for 4th or subsequent</p> <p>A probationer detained for a technical violation must be brought before the court within 15 calendar days or be released and returned to probation</p> <p>Prohibits the use of revocation as a response to certain acts</p> <p>Defines “technical violation” and “absconding”</p>		<ul style="list-style-type: none"> • Train staff and officers on new policies • Create quality assurance measures and collect performance metrics • Train and complete train the trainer on the use of graduated responses 	
<p>Risk and Needs Assessment (Sect. 90 and 95)</p>	<p>Administer a risk and needs assessment to each offender. Use results to guide programming and placement decisions</p>	<p>Department of Corrections</p> <p>Division of Parole and Probation</p>	<ul style="list-style-type: none"> • Assist with rollout of NRAS • Assist with development of policies on the use of the tool • Train staff on the new policies and use of NRAS • Review NDOC policies on case plans – if necessary, alter to 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
	<p>The risk and needs assessment must undergo a validation study every 3 years</p> <p>Department must establish a quality assurance procedure to ensure proper and consistent scoring</p> <p>Division must administer a risk and needs assessment to each probationer and parolee for setting level of supervision and developing individual case plans, and re-administer once every year to determine if a change in the level of supervision is necessary</p>		<p>ensure each individual has a case plan</p> <ul style="list-style-type: none"> • Help (if needed) NDOC and P&P develop list of treatment programming in the community to assist with individualizing case plans • Ensure case plans are built around NRAS results • Train staff on effective case management • Create quality assurance measures and collect performance metrics • Talk with UCCI about changes, coordinating efforts, and future validation of the tool 	
<p>Medical Release (Sect. 91)</p>	<p>Adds additional methods for medical release to be requested and submitted to the Director</p> <p>Allows for the Director to assign an offender to the Division to serve a term of residential confinement or other appropriate supervision for not longer than the remainder of their sentence if the person is physically incapacitated or in ill health to such a degree that the offender does not pose a threat to the safety of the public or in ill health and expects to die within a certain number of months. This bill increases the</p>	<p>Department of Corrections</p> <p>Division of Parole and Probation</p>	<ul style="list-style-type: none"> • Support NDOC and P&P in updating policies on medical release • Educate staff on new policies 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
	eligibility criteria to apply to people within 18 months of release (from 12 months)			
Geriatric Parole (Sect. 93.3)	Authorizes the Board to grant geriatric parole in certain situations	Parole Board Division of Parole and Probation	<ul style="list-style-type: none"> • Support Parole Board in updating internal policies • Educate staff on new policies • Work with P&P to prepare for this special population 	
Other Parole Changes (Sect. 97)	The Board may grant parole without a meeting to prisoners who meet certain criteria	Parole Board	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
Reentry (Sect. 92, 100)	<p>Department is required to develop a reentry plan no later than 6 months before release</p> <p>NDOC must ensure every releasing individual has:</p> <ul style="list-style-type: none"> • Photo ID • Clothing • Certain transportation costs • If appropriate, release to a transitional living facility • If eligible, complete enrollment application paperwork for Medicaid and Medicare; and • If applicable, a 30-day supply of prescribed medication. 	<p>Department of Corrections</p> <p>Division of Parole and Probation</p> <p>Parole Board</p>	<ul style="list-style-type: none"> • Support internal education efforts • Work with NDOC to develop policies/procedures to ensure all releasing individuals have necessary materials 	
Early Discharge (Sect. 93.7 – parole Sec. 17 - probation)	<p>Requires the Division to recommend the early discharge of a person under the following circumstances:</p> <p>Parole</p> <ul style="list-style-type: none"> • Has served at least 12 calendar months and is projected to have 	Division of Parole and Probation	<ul style="list-style-type: none"> • Develop and distribute Practitioner Guide • Help P&P develop/revise internal policies 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
	<p>not more than 12 months remaining to</p> <ul style="list-style-type: none"> • Has not violated any condition during the preceding 12 months • Is current with any fee to defray the costs of supervision • Has paid restitution in full or is unable to make restitution due to economic hardship • Has completed substance use or mental health treatment or a specialty court program as mandated by the Board <p>Probation</p> <ul style="list-style-type: none"> • Has not violated any condition during the preceding 12 months • Is current with any fee to defray the costs of supervision • Has paid restitution in full or is unable to make restitution due to economic hardship • Has completed substance use or mental health treatment or a specialty court program as mandated by the Board • Has not been convicted of a violent or sexual offense 		<ul style="list-style-type: none"> • Support communication to staff on revised policies • Assist the Division in developing performance metrics 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
Evaluation, Certification, and Monitoring of programs for the treatment of persons who commit domestic violence (Sect. 110.5 and 102)	DPBH programs must ensure programs for DV treatment meet certain criteria (such as being based on EBP)	Division of Public and Behavioral Health	<ul style="list-style-type: none"> Assist DPBH in revising policies, including those affecting contractors and vendors Support communication to staff on revised policies Develop and distribute Practitioner Guide 	
Behavioral Health Grant Program (Sect. 104)	Requires POST to develop and implement, subject to available funding, a behavioral health field response grant program to allow law enforcement and behavioral health professionals to safely respond to crises involved persons with behavioral health issues Requires POST to submit annual report during each year the grant program is funded	Peace Officer Standards and Training Commission ("POST")	<ul style="list-style-type: none"> Support POST in developing grant program (including developing application and selection criteria) Support the development of quality assurance procedures and performance metrics 	
Law Enforcement Behavioral Health Response (Sect. 105)	Requires each law enforcement agency to develop policies for interacting with people with behavioral health issues If funds are available, also requires agencies to contract with or employ a behavioral health specialist	Local law enforcement agencies	<ul style="list-style-type: none"> Support the development of policies for interacting with people with behavioral health needs Research models for law enforcement-behavioral health partnerships as needed 	
POST Training (Sect. 104, 105, 107, 108)	Requires POST to develop and approve a standard curriculum of certified training programs in crisis	POST	<ul style="list-style-type: none"> Assist in the identification of certified training programs in crisis intervention, including 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
	<p>intervention to address specialized responses to persons with mental illness</p> <p>Requires POST to establish by regulation standards for a voluntary program for the training of law enforcement dispatchers that includes training related to such crisis intervention</p>	Local law enforcement agencies	<p>agency needs for meeting these criteria</p> <ul style="list-style-type: none"> Support the development of quality assurance procedures and performance metrics 	
<i>Specialty Court Definition</i> (Sect. 16.5)	Adds the definition of Specialty Court	Court	<ul style="list-style-type: none"> Support education efforts Develop and distribute Practitioner Guide 	
<i>Establishment of a program for the treatment of drug/alcohol Use</i> (Sect. 20-23)	Establishes a court program for the treatment of drug or alcohol use	Court	<ul style="list-style-type: none"> Support education efforts Develop and distribute Practitioner Guide Support efforts to connect courts with local P&P for information sharing on local treatment/programming 	
<i>Discharge from probation due to completion of treatment program</i> (Sect. 27, 29, 29.5, 30)	<p>Allows courts to require an individual attend treatment as a condition of probation</p> <p>Also revises eligibility requirements for participation in the treatment of mental illness, intellectual disabilities; and the treatment of veterans and members of the military</p>	Court	<ul style="list-style-type: none"> Support education efforts Develop and distribute Practitioner Guide Support efforts to connect courts with local P&P for information sharing on local treatment/programming 	
<i>Probation Sentence Reform</i> (Sect. 34)	<p>Changes the maximum length of probation to no more than:</p> <ul style="list-style-type: none"> 12 months for a gross misdemeanor 	<p>Courts</p> <p>Division of Parole and Probation</p>	<ul style="list-style-type: none"> Develop and distribute Practitioner Guide Support education of judges and lawyers 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
	<ul style="list-style-type: none"> • 18 months for a category E felony • 24 months for a category C or D felony • 36 months for a category B felony • 60 months for a violent or sexual offense 		<ul style="list-style-type: none"> • Support P&P in updating policies • Assist in communicating changes to staff 	
Mandatory Probation (Sect. 24)	Removes exceptions to mandatory probation	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
Deferred Judgment (Sect. 19)	Authorizes a court to defer judgment. When the defendant has met the conditions, the court is required to discharge the defendant and dismiss the proceedings	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
Petition for sealing of records for invasion of a home with a deadly weapon (Sect. 37)	Prohibits a person from petitioning for sealing of records relating to a conviction of invasion of the home with a deadly weapon	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
Burglary Offenses (Sect. 55)	Establishes certain types of burglary and various penalties for each type imposed	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
Felony Theft Changes (Sect. 58)	Increases felony theft threshold to \$1,200 and establishes tiers of penalties based on value of the property or services	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
Theft Offenses Changes (Sect. 59, 60, 61-64, 65-83, 85, 126, 131, 132)	Makes changes to various theft offenses that use monetary thresholds	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	

Policy	Key Components	Agency Responsible	CJI Technical Assistance	Timeline/Status
<i>Scanning Devices as a crime</i> (Sect. 84.3, 84.5)	Reduces using a scanning device as a crime from a Category B felony to a Category B felony	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
<i>Habitual Criminal</i> (Sect. 86)	Changes habitual criminal statute Increases the number of previous convictions necessary to be counted as "habitual criminal," and prohibits the consideration of certain low level drug offenses towards that tally	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	
<i>Changes to certain drug offenses</i> (Sect. 84, 111, 112, 113, 116, 117, 119, 122.5, 125, and 130)	Decreases penalties for certain controlled substance offenses Establishes the crimes of low-level trafficking and high-level trafficking Decreases the penalty for use or being under the influence of a controlled substance to a misdemeanor, regardless of the schedule in which the controlled substance is listed Reduces the penalty for various crimes that are currently category B felonies to a category C felony	Court	<ul style="list-style-type: none"> • Support education efforts • Develop and distribute Practitioner Guide 	



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Justice Reinvestment and the Justice Reinvestment Initiative: Impractical Vision and Oversold Program

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reinvestment, community, corrections, cost efficiency, public safety, incarceration

Abstract

Justice reinvestment was introduced in the early 2000s as a means to respond to the massive growth in incarceration in the United States that had occurred during the past three decades by diverting offenders from prison and redirecting a portion of the associated corrections expenditures into communities to build their capacities to manage offenders locally. Over the next 17 years, the concept evolved into a Congressionally funded federal grant program that shifted the focus of reinvestment away from community reinvestment and toward a state-agency practice improvement model that ultimately aimed to improve public safety. A distinct form of justice reinvestment, the Justice Reinvestment Initiative (JRI), was the dominant practice of justice reinvestment in the United States. It was organized as a public-private partnership that engaged states in bipartisan efforts to enact legislative reforms and other policies to address sentencing and corrections practices and adopt high-performing evidence-based practices (EBPs) that would yield the desired public safety benefits. JRI contributed to legislative reforms and adoption of EBPs, especially in community supervision. But JRI has not been shown to have achieved its objectives of reducing correctional populations, achieving savings, and improving public safety.



INTRODUCTION

When Susan Tucker and Eric Cadora introduced the concept of justice reinvestment in 2003 (Tucker & Cadora 2003), the prison population in the United States had increased from approximately 200,000 persons in the early 1970s to 1.3 million persons. It would continue to rise to approximately 1.6 million around 2007, before beginning a slow decline (Bronson & Carson 2019, Carson 2018). Calling this expansion of incarceration a costly national dependence on a penal policy that sacrificed rather than enhanced public safety, they proposed that public safety could be improved by reducing the size and costs of correctional populations, redirecting a portion of the cost savings toward investments in local communities, and “devolving accountability and responsibility to the local level” (Tucker & Cadora 2003, p. 2). Under their model, locally directed investment in education, jobs, housing, healthcare, and other community amenities would enhance or rebuild communities, thereby leading to less crime and less incarceration. Locally based supervision of offenders would improve the accountability of local justice agencies and offenders, lower costs, and facilitate offender integration into communities.

Over the next 15 years, the concept of justice reinvestment evolved, obtained the support of private foundations, was adopted internationally, and resulted in more than \$160 million in federal investment in the United States. It has been described as “the largest effort within the United States—and now in other Western nations—to reverse what many have lamented as the use of mass incarceration” (Austin & Coventry 2014, p. 127); presented as providing a viable solution to the problem of increasing corrections expenditures and “dissatisfaction with current returns on public safety investment[s]” (La Vigne et al. 2014, p. 7); and credited with widespread adoption of evidence-based corrections programs (Klinge 2015).

The Justice Reinvestment Initiative, or JRI, a public–private partnership between the Bureau of Justice Assistance (BJA) and the Pew Charitable Trusts (Pew), was the main form of justice reinvestment in the United States. It shifted the focus of reinvestment from individual communities to managing costs and legislating reforms that would improve the efficiency of criminal justice system operations as a means to reduce recidivism and improve public safety. At least 35 states participated in some form of justice reinvestment between 2007 and 2017 (Pew 2018), and many were projected to have or were credited with having smaller prison populations than would have occurred in the absence of JRI reforms. Collectively, the states were projected to avert billions of dollars in corrections costs over periods as long as 11 years (Harvell et al. 2017, LaVigne et al. 2014).

Nongovernmental entities such as the Council of State Governments (CSG) and Pew, who also provided technical assistance (TA) to JRI participants, and the Urban Institute, which served in an outcome assessment capacity for the capacity of JRI, have tracked and recorded many examples of JRI efforts in states and localities. Each has devoted space on their respective website [Council of State Governments (<https://www.csg.org/>), Pew (<https://www.pewresearch.org/>), Urban Institute (<https://www.urban.org>)] to justice reinvestment, with literally hundreds of articles, fact sheets, reports, and stories, mostly touting successful reinvestment efforts, sharing lessons learned, or otherwise promoting the value of JRI.

However, independent reviews of justice reinvestment have been limited and largely critical. Two books (Brown et al. 2016, Fox et al. 2013) reviewed justice reinvestment in the United States, the United Kingdom, and Australia. Both argued that it was a major movement in criminal justice reform that could be used to reduce crime through investment in social justice (Fox et al. 2013), had the potential to create a new dialog about how to reduce incarceration and the racial disparities within it, and build community capacity (Brown et al. 2016). Both concluded that it had not yet achieved its goals. A special edition of *Criminology & Public Policy* devoted to mass incarceration included a proposal for justice reinvestment and a set of commentaries that generally were less

sanguine about its prospects than the books. Assessments of it within the broader contexts of the politics of mass incarceration (Gottschalk 2015), the economics of prison growth (Pfaff 2016), sentencing reform of the 2000s (O’Hear 2017), and community supervision practices (Klinge 2015) have pointed out some of its internal contradictions. Finally, despite its scope and the public attention given to justice reinvestment, it was not given a prominent place in either of two recently published volumes devoted to criminal justice reform. Neither Erik Luna’s four-volume *Reforming Criminal Justice* (Luna 2017a) nor Michael Tonry & Daniel Nagin’s *Reinventing American Criminal Justice* (Tonry & Nagin 2017) devoted a chapter to it, although several of the papers in Luna’s volumes gave it limited attention in their discussions of prison or supervision reform efforts.

Our review distinguishes between the concepts of justice reinvestment, which allows for justice funds to be reallocated to non-justice domains, and the JRI, which characterized the US experience. We describe the justice reinvestment concept as originally envisioned and how it evolved, particularly within the United States. We describe the transition from justice reinvestment to JRI, which represented a marked shift in the emphasis of reinvestment away from place- and community-based offender management to a state-level strategy that emphasized improving corrections departments’ practices through expanded use of evidence-based programming. This shift largely preserved the size and oversight function of the justice system, as reinvested dollars flowed from one sector of the justice system to another, as opposed to community-based, primary prevention efforts. Our review therefore focuses largely on the JRI experience and the extent to which it achieved its objectives. We conclude with observations about both justice reinvestment and JRI.

ORIGINS AND EVOLUTION OF THE CONCEPT OF JUSTICE REINVESTMENT

The theoretical basis for justice reinvestment comes from the community development literature, but it borrows insights from research on the collateral consequences of incarceration. Individual-, community-, and system-level characteristics were seen as inextricably linked causes of crime that necessitated multipronged reforms to address. First, justice reinvestment’s systems-level approach sought to ameliorate the impact of concentrated mass incarceration and coercive mobility—the forced removal and return of community residents through incarceration (Clear et al. 2003)—by reforming sentencing and revocation policies to reduce the use of prison (Austin et al. 2013, Clear 2011, Tucker & Cadora 2003). Second, justice reinvestment emphasized the importance of bolstering family and community cohesion through the adoption of policies designed to revitalize distressed communities and increase the availability of preventive programs and educational and economic opportunities (Clear 2011, Tucker & Cadora 2003). Finally, justice reinvestment emphasized assessment of offenders to address their individual treatment and programmatic needs while also managing their public safety risk (Clear 2011). This also exhibited itself in the concept of local community control and accountability for offenders.

Tucker & Cadora (2003) viewed justice reinvestment as a means to reduce mass incarceration and build capacity in communities affected by it. They located the causes of mass incarceration in the tough sentencing and corrections policies of the 1980s and 1990s, such as the war on drugs, mandatory minimums, three-strike sentences, truth-in-sentencing, and diminution of judicial discretion. Pointing to findings that a relatively small number of neighborhoods accounted for a disproportionately high number of prison admissions (Clear 2008, Clear et al. 2003, Kurgan 2013, Lynch & Sabol 2001, Sampson & Loeffler 2010), Tucker & Cadora dubbed as million-dollar blocks those areas associated with massive corrections expenditures that have also struggled with pervasive crime despite record-high levels of incarceration. And they asked if some portion of those costs might not be put to different uses that would strengthen communities.



Following the arguments of Clear et al. (2003), Tucker & Cadora argued that high rates of removal of residents to incarceration introduced coercive mobility, which diminished informal social control in communities that, in turn, led to more crime. Offenders' opportunities for success were limited by high rates of reincarceration for technical violations while on parole, a dearth of training and treatment services available upon reentry, and the fragility of economic and social institutions in the neighborhoods to which they were returning. Opportunities for offender reintegration were exacerbated by the lack of programmatic, economic, and social support systems within the neighborhoods with high concentrations of crime and incarceration.

Under justice reinvestment, some of the monies that would have gone to cover the costs of imprisonment would flow from the state to local communities to manage offenders locally and invest in community institutions. Localities would be accountable to the state for any person who reoffends and goes to state prison. Locally tailored solutions would include, for example, allocating parole officers to neighborhoods rather than dispersing their workloads; designing prisoner reentry as a shared responsibility of governments, community institutions, families and friends, and the individual offender; and building communities through reinvestments targeted at improving local schools, housing, employment, and other objectives.

Eight years after Tucker & Cadora, Todd Clear (2011) proposed a justice reinvestment model for a place-based, detailed voucher system that diverted cost savings from states' corrections budgets to community-based organizations and employers on a per-offender, real-time basis. Approved organizations and employers who treated or employed diverted offenders in specific, high-incarceration communities would receive monthly subsidies so long as the offenders did not reoffend or become reincarcerated. Clear built local accountability into the model by eliminating the state subsidy for cases of supervised offenders reoffending for a new crime. To ensure emphasis on community revitalization and sustainability, the model required participating organizations to employ offenders and their families and provide key services, such as housing, educational or vocational training, and substance-abuse treatment.

This original vision of justice reinvestment was met with a mixture of praise and skepticism. On one hand, the concept was characterized by the "elegance of the critique and solution" as an "aesthetically compelling idea" that gives "pleasure to the mind or senses," and had properties of "harmony of form or color, excellence of artistry, truthfulness, and originality" that policy makers and art galleries seek to find (Maruna 2011, pp. 661–62). It was described as an approach that would have broad appeal because it could provide "greater safety for citizens through redeploying some of the wasteful sums needlessly spent on imprisonment" (Allen 2011, p. 617). The National Research Council (NRC) offered that JRI could contribute to the neighborhood capacity building of the initial justice reinvestment efforts as part of an approach to "reduce[e] reliance on incarceration" (Travis et al. 2014, p. 353). Klingele (2015) expressed hopefulness that JRI's pragmatic approach could continue to bring political partisans together in a way that would potentially lead to more reform.

On the other hand, criticisms of the original concept of justice reinvestment pointed out that the concept was not fully developed and did not address important issues. First and foremost, justice reinvestment did not address the assumptions that sufficient funds could be diverted for community reinvestment and the mechanisms by which funding streams for community reinvestment would be sustained if prison costs decreased were not articulated. Questioning whether the savings that could be extracted from corrections would be sufficient without first obtaining very large reductions in the size of prison populations, Austin (2011, Austin et al. (2013) called for sentencing reforms that would curb admissions for new crimes and shorten lengths of stay. Their justice reinvestment proposals included reclassifying certain crimes as misdemeanors, reducing arrests for drug offenses, expanding early release eligibility for most offenders, imposing

shorter terms for many crimes, and eliminating mandatory minimums and life sentences for most crimes. If implemented, these would lead to much smaller prison populations and possibly greater amounts for reinvestment. Their model also required local municipal and county officials to act in coalitions to press for reforms that would reduce the concentration of incarceration in their communities as well as share in the political risks of legislating the reforms that reduced reliance on incarceration.

But even under the more radical approach preferred by Austin et al. (2013), it is not clear that there would be sufficient savings for community reinvestment. Kleiman (2011) estimated that if the prison population were halved and coupled with the necessary expansion of treatment services for offenders diverted to supervision, approximately \$10 billion in savings on the \$50 billion spent by states would obtain. This amounted to approximately half of one percent of state expenditures, an amount that seems inadequate to address the community reinvestment needs. Furthermore, state legislatures appropriate funds, not averted costs or savings. It is therefore far from certain that state legislatures would appropriate the savings for local community reinvestment as opposed to other needs (Tonry 2011). Even under Clear's voucher model, it is not clear where state prison departments would get funding to pay the vouchers if their prison populations were reduced. More likely, state legislatures would appropriate smaller amounts to state prison departments under such a scenario.

Furthermore, the cost savings associated with reducing prison populations were generally overstated (Gottschalk 2015, Pfaff 2016, Tonry 2011). Estimates of savings based on per-capita or average costs per prisoner overstate the savings unless entire prisons are shut down. This is because most prison costs are fixed costs for personnel, operations, and amortization, and these do not change without substantial reductions in the number of facilities and number of staff. The means by which states would implement reductions in force if significant prison population reductions occurred also were not addressed (Gottschalk 2015).

Additionally, justice reinvestment advocates did not address the potential for increasing inequities and disparities in resources, services, and the administration of justice that could arise from devolving authority to localities (Allen 2011) or that pragmatic appeals to instrumental arguments about costs and benefits ignored fundamental issues about the severity of sentencing in the United States (Maruna 2011, Mayer & Patti 2015, Tonry 2011).

Early Justice Reinvestment Implementation Efforts

Between 2004 and 2008, Connecticut, Kansas, Texas, Rhode Island, and Arizona initiated justice reinvestment efforts (Austin & Coventry 2014). With financial support from the Open Society Foundations and later Pew, and with the TA from nonprofit research and TA firms, including the JFA Institute, CSG, and other organizations, the original justice reinvestment strategy was organized around three parts: working with state legislatures to analyze criminal justice populations to recommend ways to generate savings; engaging experts to steer investment opportunities; and organizing demand for neighborhood investment by affected communities (Austin et al. 2013).

Fox et al. (2013) and Brown et al. (2016) describe several of these early efforts. Most led to a variety of policy reforms that targeted administrative practices such as reducing revocations for technical violations of parole and probation, reestablishing good-time credits to reduce lengths of stay in prison, and holding parole hearings at the earliest possible date. Connecticut, Kansas, and Texas also expanded their community-based treatment and supervision practices in an effort to increase the use of alternative sanctions and provide greater reentry services.

In at least three states, some form of community reinvestment was attempted. Texas reallocated several million from its reserves to expand its Nurse–Family Partnership program—an effort to



reduce violence and improve the health and well-being of low-income families (Clement et al. 2011). Connecticut outlined a plan to reinvest correctional savings, along with private investments and federal grants, to bolster employment opportunities in the state's high-incarceration communities (CSG 2003). Eventually, Connecticut invested in transitional housing for returning inmates (Austin et al. 2013). In 2007, Kansas lawmakers proposed a New Communities Initiative pilot project to revitalize high-incarceration neighborhoods in Wichita that was not implemented because of budget cuts to the state's corrections budget in the wake of the 2008 financial crisis. None of these early efforts resulted in or experienced sustained investments.

International Justice Reinvestment Experiences

The United Kingdom and Australia also took on justice reinvestment efforts. A detailed review of them is beyond the scope of this article and has been outlined elsewhere (e.g., Brown et al. 2016, Wong et al. 2014). In the United Kingdom, concerns about the growth in the size and costs of corrections led the House of Commons Justice Committee to question the financial sustainability of the system (Fox et al. 2013). Prison population growth was seen as the result of the justice system treating prison as a free commodity and not holding justice system actors accountable for the consequences of their decisions (Brown et al. 2016).

As in the United States, the existence of high concentrations of offenders in certain areas supported the idea that local solutions were necessary, and early thinking about justice reinvestment focused on how to enhance local control and provide support to communities. Local decision-makers were viewed as able to secure local support, coordinate resources, and work with offenders to integrate them into local programs that would also build capacity in local communities (Allen 2007, 2011). Through local administration, accountability and the administration of justice would benefit (Stern & Allen 2007, Wong et al. 2014).

In practice, justice reinvestment as implemented in the United Kingdom has been described as narrow and focused on reducing individual reoffending and not on community reinvestment (Wong et al. 2014). It has been described as reflecting a choice by politicians to use the language of reinvestment to support a focus on reducing recidivism and costs, or "to make the 'reinvestment' a reality by capturing savings in the criminal justice system" (Brown et al. 2016, p. 61). A set of small-scale pilot projects were designed to divert offenders from custody or provide community-based, postrelease services for returning offenders. These were based on the delivery of a criminal justice services model rather than a community reinvestment model. However, the scale of the interventions was too small and the payments were insufficient to cover costs (Wong et al. 2014).

In Australia, early interest in justice reinvestment among community groups and members of the federal government led to the commissioning of a Senate inquiry outlining the potential of justice reinvestment to address the problem of overincarceration among the nation's disadvantaged peoples (Brown et al. 2016). Despite widespread agreement that Aboriginal, Torres Strait Islander, and mentally or cognitively impaired peoples are disproportionately impacted by the Australian justice system and that a justice reinvestment program rooted in localism is well suited to address this disparity, plans for the development and implementation of a federally supported reform program have not come to fruition (Brown et al. 2016). Instead, the bulk of justice reinvestment in Australia has proceeded piecemeal in various communities through the efforts of local or regional grassroots organizations. Although these initiatives may be associated with concomitant reductions in costs and increases in local social welfare indicators (KPMG 2018), few evaluations have been conducted. And, as evidence from the United Kingdom's experience suggests, such small-scale programs may be limited in their capacity to produce substantial savings and change (Wong et al. 2014).

THE JUSTICE REINVESTMENT INITIATIVE

JRI was the dominant form of justice reinvestment practiced in the United States. It was distinct from justice reinvestment in several ways. First, its investment goal was justice system agencies and not community development. Second, although it promised that corrections costs would be saved by reducing imprisonment, its primary aim was to improve the efficiency of justice system operations and not large-scale reductions in incarceration. And third, it gave primacy to state-level agency stakeholders over community advocates.

It was built on a model in which states secured support from key justice agency stakeholders; established bipartisan, interagency, or interbranch working groups of elected and appointed justice officials; used data to diagnose the sources of prison population growth; and enacted legislation or other evidence-based policy reforms to address the growth of correctional populations, and it aimed to improve public safety while containing corrections costs (LaVigne et al. 2014). JRI's public safety, cost-reduction, and cost-containment goals had broad bipartisan appeal. Cost containment appealed to the political right. Reducing prison populations appealed to the political left. The emphasis on evidence-based practices appealed to those believing in the potential efficacy of government programs regardless of their political persuasion.

Identified as starting in 2010 (LaVigne et al. 2014) with the first Congressional appropriation of \$10 million for “activities related to comprehensive criminal justice reform and recidivism reduction efforts by the States,” (Pub. L. No. 111-117, 123 Stat. 3034, 2 U.S.C. § 661, p. 3,135). JRI was implemented as a public-private partnership between BJA and Pew, a rare if not unique organizational arrangement within the Department of Justice. Between 2010 and 2017, Congress appropriated approximately \$138 million for JRI (Harvell et al. 2017). In 2013 and 2016, BJA carved out JRI funds from other discretionary grant programs totaling approximately \$33 million (OJP 2017). Prior to 2010, BJA also used funds from its discretionary grant programs to support JRI TA providers (OJP 2017). These sums suggest a BJA investment in JRI that exceeded \$160 million.

Justice Reinvestment Initiative Implementation

JRI's data-driven process (BJA 2010, 2013, 2015 involved seven steps (Davies et al. 2015, LaVigne et al. 2014, Welsh-Loveman & Harvell 2018) that fed back on themselves in a continuous cycle of reform:

1. Establish a bipartisan working group (inclusion criteria)
2. Analyze data and identify prison population drivers
3. Develop policy options
4. Codify and document changes
5. Implement policy changes
6. Reinvest savings
7. Measure outcomes

BJA-funded TA providers worked with government officials to identify drivers of correctional population growth, evaluate the cost-effectiveness of state spending on corrections, and develop data-driven policy options to improve corrections management strategies, increase public safety, and improve offender accountability (BJA 2006, 2013). These Phase I activities included developing bipartisan support for JRI efforts, building data infrastructures to track implementation and outcomes, demonstrating a willingness to implement EBPs as part of JRI-reform efforts, and exhibiting the capacity to project what prison populations and corrections would be with and without the JRI reforms. Subsequently, states could become eligible for Phase II grants for implementation.



Phase II grant eligibility was based on a state's readiness, i.e., having demonstrated a commitment to reform and the completion of Phase I activities, including memorializing criminal justice reforms in legislation or another mechanism and a willingness to implement JRI reforms (BJA 2013). TA providers assessed readiness and made recommendations to BJA regarding Phase II grants.

BJA supported the work of an Oversight, Coordination, and Outcome Assessment (OCO) to monitor, track, and report on JRI efforts, impacts, and outcomes. The OCO was funded to accomplish multiple and potentially conflicting roles surrounding implementation and evaluation that included (BJA 2010, 2011, 2015):

- Giving guidance to TA providers to ensure fidelity to the JRI model.
- Reviewing TA provider recommendations about the readiness of states for JRI.
- Making recommendations to BJA about relevant criminal justice research on ways to improve the effectiveness of JRI.
- Providing guidance to BJA, TA providers, and the sites on performance measurement, data collection, and evaluation research.
- Monitoring, tracking, and reporting on JRI efforts, impacts, and outcomes, including effects on prison population size, costs, investment in high-performing strategies, and improvements in public safety and reductions in recidivism.
- Assessing which JRI strategies yielded the greatest impacts on public safety and producing a report on this.

BJA funded the OCO via a cooperative agreement mechanism that gave BJA a substantial role in the OCO project, including the rights to review and approve OCO activities.¹

Justice Reinvestment Initiative's Technical Assistance–Driven Model Led to a Shift in the Focus of Reinvestment

JRI relied on TA providers to engage and enroll states, working with them to develop bipartisan stakeholder groups, engineer solutions that addressed prison population growth, and assess states' readiness for JRI. The TA providers also made funding recommendations to BJA. The TA model resulted in a shift away from the focus on systemic and community factors tied to criminogenic risk, as originally described by Tucker & Cadora (2003) and operationalized by Clear (2011). Rather, JRI's reinvestment was put into state justice agencies, primarily community corrections, to improve their functioning. Whereas the community-reinvestment version of justice reinvestment was envisioned as a response to the problem of crime, JRI ultimately became a reform of criminal justice system processes practically designed to more effectively manage offenders. Brown et al. (2016, p. 115) note:

As originally conceived in 2003, and as reimaged by Austin et al. in 2013, justice reinvestment has at its core not just decarceration, but community-driven local capacity building in the places most in need of positive change. In practice, however, we have seen that many of the cornerstone ideas of JR have been altered, reconceived or abandoned. The most significant of these shifts has been the move away from localized, place-based justice reinvestment, and the failure to reinvest savings in communities that produce large numbers of prisoners.

Despite JRI's broad, bipartisan political appeal, advocates of the original vision of community-based justice reinvestment argued that the system-level approach of JRI excluded the communities most affected by incarceration and did not address the problem of mass incarceration as originally

¹The Urban Institute was selected as the OCO through a competitive solicitation process.

envisioned (Austin et al. 2013). O’Hear (2017) argued that JRI’s focus on improving correctional efficiency was only tangentially related to the goal of reducing prison populations. These criticisms of JRI’s system-level approach concluded that the entities responsible for managing the large-scale correctional populations in the United States could not be counted on to reduce mass incarceration. Rather, as O’Hear suggested, JRI-empowered corrections officials would be more likely to use their enhanced capacities to respond to problems of chronic antisocial behavior with even more correctional control.

These views coincide with those of other advocates of the original vision of justice reinvestment. For example, Vanita Gupta, eventually appointed as the Principal Deputy Assistant Attorney General to head the Civil Rights Division at the US Department of Justice, expressed similar concerns. She argued that by limiting the stakeholders primarily to state-level actors at the expense of local community stakeholders, JRI became a more conservative effort that limited the scope of reform so much that the JRI would not have an impact on mass incarceration (Brown et al. 2016). Ultimately, these advocates argued, this led JRI to become a conservative, status-quo-preserving reform effort (Austin et al. 2013). Ultimately, as we discuss later, JRI has not been shown to produce reductions in prison populations.

Hence, it is important to understand how JRI became a TA-driven and state-focused effort. We argue that two factors led to this. The first was federal funding priorities and the second was the expertise and experience of the entities that obtained funding through the competitive JRI grant programs. Dating back to and likely before the Government Performance Results Act of 1993 (Pub. L. 103-62, S.20), an evidence-based policy movement coincided with managerialism in the public sector and the belief that effective federal programs could be implemented independently of ideology and that federal performance could and should yield measurable benefits and results.

By the mid-2000s, building on the work of Sherman and colleagues (Sherman et al. 2012) and the existence of “what works” clearinghouses, Laurie Robinson, the nominee for the Assistant Attorney General position for the Office of Justice Programs, described a role for federal funding to address crime that included developing and disseminating knowledge about what works and funding TA (COSSA 2010, Robinson 2017). Her testimony coincided with the evidence agenda promoted by the Office of Management and Budget (OMB). Beginning in the mid-2000s, OMB issued a series of memoranda to federal agencies in which it requested the agencies develop budget requests to strengthen the development and use of evidence, focus on a relatively small number of high-quality programs that would yield credible evidence of impacts, and direct larger shares of agency resources toward evidence-based practices (Burwell et al. 2013, Orszag 2009). As a federal programmatic, grant-making agency, BJA budget plans were subject to OMB review, and it had to align its objectives with OMB’s. Given the federal priority on evidence-based practices and the relative lack or absence of evidence about effective community-based justice reinvestment efforts coupled with knowledge of EBPs that focused on offenders’ risk and needs, federal funding priorities emphasized the evidence-based practices that helped to shift the focus of JRI toward the state-agency and TA-led models.²

Second, according to interviews conducted by Brown and colleagues, the focus on EBP was also associated with JRI’s move toward investments in criminal justice system improvements. This shift

²At CrimeSolutions.gov (<https://crimesolutions.gov/TopicDetails.aspx?ID=35>), the Justice Department’s “what works” clearinghouse for justice programs, there are no programs identified as evidence-based that mimic justice reinvestment into the community. By comparison, CrimeSolutions.gov identifies several reentry and community-corrections programs as evidence-based. These include intensive supervision, treatment for mentally ill inmates, reduced probation caseloads, and day treatment programs.



aligned with the expertise of the JRI TA providers that obtained the competitive grants that BJA provided for TA. Quoting TA providers, Brown et al. (2016) report that they believed that there was not a consensus regarding evidence-based methodologies for community development from justice-reinvested funds. By comparison, the criminogenic risk and needs literature (see James 2018 for a summary) provided guidance on EBPs. Furthermore, the EBP focus was consistent with JRI TA providers' expertise in working with state agencies. The TA providers argued that a justice system focus for JRI better aligned with their skills and experience than a focus on communities (CSG 2013). As Brown and colleagues report, one TA provider acknowledged "we're not community redevelopment experts" (Brown et al. 2016, p. 95). Although JRI TA providers did not dispute the fact that disadvantaged communities had great needs, they also pointed to legitimate weaknesses in state corrections systems' operations and argued that these problems needed to be addressed. These problems provided opportunities for change without needing to take a place-based approach to justice reinvestment. Thus, the combination of federal funding priorities, competitive grantmaking, and the experience and expertise of TA providers reinforced a state-agency model that reflected the expertise of the TA providers and addressed a reasonable need to improve agencies and the supervision that they provided. According to our argument, federal funding priorities in combination with funded expertise combined to shift the focus of justice reinvestment toward corrections' systems improvement.

State Participation in the Justice Reinvestment Initiative Coincided with Widespread Legislative Sentencing Reforms

Twenty-eight states participated in the JRI process between 2010 and 2016 (Harvell et al. 2017, LaVigne et al. 2014) and were included in the Urban Institute's OCOA assessment reports.³ JRI states were defined as those involved in a time-limited JRI engagement that had previously engaged in criminal justice policymaking and intended to continue to do so after their JRI engagements end. This definition excluded California, which implemented justice reinvestment under Assembly Bill 109 following the US Supreme Court decision in *Brown v. Plata* (2011). That decision in 2011 ordered California to reduce the size of its prison population. AB 109 defined the purpose of justice reinvestment as "managing and allocating criminal justice populations more cost-effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable" (Petersilia 2014, p. 334). AB 109 aimed to support local community-based programs and EBPs.

The Urban Institute's reports on states' JRI experiences describe what were identified as drivers of correctional population growth, the reform responses by the states, the adoption of EBPs, and estimates of impacts on prison populations and costs. Commonly reported prison population drivers among JRI states were parole and probation violations, with technical violations for drug and alcohol offenses identified as the primary cause of revocations in many states. Existing sentencing practices and insufficient community corrections programs were also identified as drivers (Harvell et al. 2017, LaVigne et al. 2014).

JRI practices varied among the states. Eighteen of the twenty-eight states that participated in JRI by 2016 adopted a variety of sentencing reforms, including changes to penalty classifications, mandatory and presumptive sentencing guidelines, sentencing enhancements, and alternative

³As Brown et al. (2016) and others point out, there were several, locally based justice reinvestment efforts, such as BJA's funding for local jails (BJA 2008), and the Urban Institute produced a handbook for local practitioners on justice reinvestment (Parks et al. 2016). We exclude a discussion of these because they were few relative to the state JRI efforts and because of space limitations.

sentencing options. Twenty states implemented changes to their prison-release practices through practices such as expanded parole eligibility, use of good-time credits, and streamlined parole processes. Commonly enacted community corrections reforms included graduated sanctions, caps on the number of times a person can be revoked, and legislation to expand community-based supervision and treatment programs.

JRI implementation occurred during a period of vigorous sentencing reform activity among the states. Between 2000 and 2016, every state in the United States passed legislation that had one or more elements of the types of legislative reforms that were documented as occurring under JRI. As cataloged in various state legislative tracking efforts by the National Conference of State Legislatures, the Sentencing Project, and the Vera Institute (Austin 2010; Brooke-Eisen & James 2012; Lawrence 2008; Mauer 2011; NCSL 2010, 2017; Porter 2017; Subramanian & Moreno 2014; Subramanian & Delany 2014), state legislative actions during this period addressed the use of EBPs and diversion programs and the possibility of requiring or encouraging the use of risk-assessment instruments, downgrading offenses (mostly property or drug), altering mandatory minimum sentences, expanding the use of specialty courts, adding alternatives to prison, increasing the use of good-time credits to shorten stays in prison, addressing parole revocation practices, and providing for programming to address returning prisoners.

Although it is difficult to determine whether JRI caused the sentencing reform activity, the pace of legislative enactment appeared to increase during JRI. Our review of the dates that states enacted sentencing reforms indicates that the majority of the states that participated in JRI enacted JRI-type legislative reforms prior to their participation. As one condition for JRI participation was evidence of sentencing and criminal justice reform, the passage of sentence legislation prior to participating in JRI could be viewed as evidence of a JRI impact on reform.

The sentencing reforms of the 2000s, whether adopted before or during JRI, focused on making sentencing less severe, but according to the NRC and others, they did not substantially alter the major punitive laws passed during the 1980s and 1990s that increased certainty and severity of sentencing (Stemen & Rengifo 2011, 2012; Stoll & Raphael 2013; Tonry 2017a; Travis et al. 2014). Rather, the NRC characterizes them as “relatively minor and target[ing] less serious offenses” (Travis et al. 2014, p. 74), even though the reforms rolled back some mandatory minimums (Luna 2017b). O’Hear (2017) echoes this conclusion and points out that reductions in sentencing for some offenses tended to be offset by increases for other offenses.

JRI emphasized reserving prison space for persons who have committed serious or violent crimes or who pose a high public safety risk (BJA 2015, 2016). However, doing this means that large-scale reduction in prison populations could not occur, as more than half of state prisoners are incarcerated for violent crimes and most prisoners have long prior criminal histories. As a number of writers have pointed out, the key to reducing mass incarceration is reducing the number of persons held for violent offenses (Austin et al. 2013, Gottschalk 2015, O’Hear 2017, Pfaff 2017, Tonry 2017a). Bureau of Justice Statistics (BJS) data show that between 2000 and 2016, the increase in violent offenders accounted for almost all the growth in prison populations, with habitual and weapons offenders accounting for the next largest share. The number of state prison inmates held for violent crimes increased by 95,000 persons and the share held for violent offenses increased to 54% from approximately 50%.

The exclusion of violent offenders from JRI efforts was nearly codified in federal law. In 2010, two bills were introduced in the 111th Congress (S.2772 and H.R. 4080) that would have established a JRI grant program. The top priority for JRI implementation grant recipients under the bills was to “improve public safety and improve individual and system accountability while reducing or maintaining criminal justice growth through policies which ensure that—violent offenders are incarcerated...” [S. 2772; Sec. 4(b)(6)(A)(i)].



Neither bill made it to the floor for a vote, but the introduction of S.2772 was met with strong support from JRI TA providers, including CSG, Pew, and the Urban Institute. These TA providers provided testimonies on behalf of the bills. CSG, for example, applauded the bills (CSG 2009) and devoted a page on its website to track the legislation. If the bills had been enacted, they would have precluded federal JRI efforts from addressing violent offenders. Despite the bills' exclusions of violent offenders, CSG and the other providers supported the bipartisan nature of the legislation, the support for JRI grant programs, and the manner in which the legislation built on CSG's efforts in other states. Other than considering that prison was appropriate for them, JRI did not address violent offenders.

Adoption of Evidence-Based Practices Under the Justice Reinvestment Initiative Was Widespread but Left Unanswered Questions About Their Impacts

A second area in which JRI had success was in the widespread adoption of risk-based tools to manage populations and the use of risk-and-needs tools to provide treatment. Twenty-one of the twenty-eight states that participated in JRI required the creation and/or use of risk instruments in the areas of pretrial diversion, community supervision, and parole decisions. These instruments are meant to inform justice officials' decision-making by identifying low-risk offenders (i.e., non-violent) who are least likely to recidivate and would, therefore, be appropriate candidates for early release or community supervision. Ten states' legislative reforms included explicit requirements that certain programs, especially in the areas of community corrections, be considered evidence-based to receive funding. At least 24 of the JRI states implemented EBP in community corrections (Harvell et al. 2017). These were based largely on the criminogenic risk and needs model (Lowenkamp et al. 2006).

Although there was widespread adoption of EBP under JRI, concerns have been raised about this. Leading researchers in EBP point out that widespread but shallow adoption of EBP in community corrections "recognizes the data points but has been missing the person" (Lowenkamp et al. 2012, p. 11). They argued that unless therapeutic practices were implemented correctly, correctional officers could focus too much on compliance with supervision requirements and lose their ability to motivate behavior change (Lowenkamp et al. 2012) or that treatment based on instrumental rather than humanistic values was not legitimate (Harris et al. 2015, Whitehead et al. 2007). Other EBP researchers echoed the concern about rapid adoption of EBP in community corrections agencies. Taxman (2013) argued that community corrections agencies operated for decades in a culture of command and control that emphasized contacts, a focus on proscribed behaviors, and threats of violations. To effectively use EBPs, the agencies would have to change their cultures and move away from an enforcement and contact-driven model to a more holistic approach to engaging offenders. Otherwise, as Klingele (2015, p. 105) pointed out, the risk of adopting EBPs without the culture change and with "conscious attention to their limits" is that they can result in greater use of incarceration in response to proscribed behaviors.

A second concern was that by measuring the adoption of EBPs as an indicator of success, JRI was measuring the wrong thing. Rather than counting and classifying various EBPs adopted in JRI states as the summary reports did (e.g., Harvell et al. 2017, LaVigne et al. 2013), Taxman and colleagues (Taxman et al. 2014) argued that JRI performance measures for EBP should focus on the measures of offender needs, system-wide availability of EBPs that were responsive to these needs, and system-wide utilization of the EBPs. Taxman's measures make sense if the goal is to assess the capacity of states to meet offender needs and to deliver services. These alternative performance measures have not been included in the state assessment reports.

The Justice Reinvestment Initiative Overstated the Potential Savings

A major motivation for participating in JRI was its promise of lower-cost corrections systems. Clear (2011) and Pfaff (2016) describe this as using the fiscal crisis following the Great Recession as an opportunity for reform. The argument for lower-cost corrections was based on the 40-year low in crime rates coupled with all-time highs in prison populations and corrections spending. JRI advocates argued that prison populations could be safely reduced, thereby freeing up some of the corrections expenditures for other purposes, including funding community corrections. As described in one of the state assessment reports, state corrections expenditures consumed too large a proportion of states' budgets, and during periods of state budget strain, "money spent on corrections draws resources away from investment in public services crucial to a state's long-term prosperity, such as education and infrastructure" (LaVigne et al. 2014, p. 6).

This popular argument about corrections expenditures appears in different forms, including the NRC report (Travis et al. 2014) and reports by the Vera Institute and the National Association of State Budget Officers (NASBO). These reports cite the increase in corrections expenditures over time and report a roughly \$80 billion figure (in 2016) spent by states and counties on prisons and jails as indications that corrections expenditures are too high. All of these reports share a focus on the absolute amount of corrections spending but not the relatively small share of total state and local expenditures that is corrections spending.

In relative terms, corrections expenditures amount to approximately 2% of all state and local expenditures (roughly \$3.6 trillion in 2016). Gottschalk (2015), along with BJS (Kyckelhahn 2012), are among the few who pointed out that state and county corrections expenditures amount to small shares of total expenditures. Consequently, they cannot be a major source of strain on budgets and reducing them would not necessarily solve states' budget problems. Our analysis of the Annual Survey of State Government Finance (US Census Bur. 2019) shows, for example, that although state spending on corrections increased over time, corrections spending as a share of total state expenditures did not exceed 3.2% annually from 1980 to 2015. State spending on corrections increased with the overall increase in state expenditures. Between 2000 and 2016, total state expenditures increased from \$1.1 trillion to \$2.2 trillion (in nominal dollars), but during these years, the corrections spending as a share of total state spending actually declined from 3% to 2.4%.⁴ Furthermore, Spelman (2009) points out that corrections spending grew at approximately the same rate as state expenditures for education, health and hospitals, highways, and other categories.

Data from the NASBO corroborate the US Census Bureau data on corrections expenditures. NASBO's reports also show that corrections expenditures declined as a share of total state expenditures, for example, from 3.7% of total state expenditures in 2000 to 3.1% in 2016 (NASBO 2002, 2017).⁵

Reductions in state corrections expenditures promised under JRI could not ease state budget pressures or markedly affect the share of state expenditures that went to other domains, as alleged. For example, between 2000 and 2015, education expenditures declined as a share of total state expenditures from 32% to 29%. During the same period, public welfare expenditures grew faster

⁴Results available from the authors upon request.

⁵In its state assessment report, the Urban Institute reports a larger share of state expenditures going to corrections than reported above. The reason is that Urban uses general fund expenditures as the denominator to calculate the share, whereas we and NASBO use total expenditures. Because corrections expenditures come from four sources—general fund, bonds, other state funds, and federal funds—excluding, as the Urban Institute did, nongeneral fund expenditures from its denominator but including them in the numerator to calculate the corrections expenditures inflates that share (see NASBO 2002, 2017).

than the overall growth in state expenditures, and their share increased from 22% to approximately 29% (or from approximately \$239 billion to \$609 billion). If the entirety of state corrections expenditures were reallocated to state education expenditures, the education share would still have declined over this time frame, from 35% to 31%. In fact, increases in public welfare expenditures, and not corrections expenditures, exerted the downward pressure on state investments in education.

JRI advocates also missed or ignored four other important points about corrections expenditures. First, the estimates of cost savings under JRI were generally overstated because they were based on the average cost of an inmate and not the marginal cost (Tonry 2011, Gottschalk 2015). As approximately 75% of corrections spending goes to fixed costs (e.g., salaries, debt service) that do not change with small reductions in the size of prison populations, the marginal cost of an additional prison is approximately one-fifth the average costs (Pfaff 2016).

Second, significant reductions in prison population size that led to prison closures would present challenges to states dealing with subsequent reductions in their workforce (Tonry 2011). These were not addressed in JRI strategies. Gottschalk (2015) points out that if reforms are justified by reference to cost savings, the reforms will generate the savings only if they cut the size of correctional staff. Corrections budgets in many states are protected by public-sector unions, and reductions in force associated with much smaller prison populations would face opposition, if not from public-sector unions then from public-sector lobbying groups.

But third, as Gottschalk (2015) also points out, it is not obvious that decarceration that does not lead to increases in crime is necessarily less expensive than prison. Rehabilitation programs that address offender needs related to substance abuse, mental health, housing, employment, and education are not cheap, especially if well-run. Finally, fiscal-based reforms such as JRI run the risk of leading to worse conditions in prisons. If state prison departments are under pressure to save money or to transfer it to other agencies before significant reductions in prison populations have occurred, this could lead to worse conditions for prison inmates. In sum, the pressure on state budgets arising from corrections expenditures was overstated and the efforts necessary to achieve significant reductions in corrections expenditures could lead to new problems for states. These were not presented as part of the case for JRI.

The Justice Reinvestment Initiative Resulted in Several States Making Up-Front Investments

According to the state assessment reports, JRI was associated with projected savings or averted costs, which were estimated as the difference between the projected future costs of corrections under business as usual and the projected costs under JRI. The difference is averted costs. Among the seventeen JRI states that participated between 2010 and 2013, total projected savings from JRI were reportedly \$4.6 billion over five to eleven years. Individual state estimates of savings ranged from \$7.7 to \$875 million (LaVigne et al. 2014). For the 28 states that participated in JRI between 2010 and 2016, a total of \$1.1 billion in savings or costs averted were attributed to JRI reforms (Harvell et al. 2017). The differences in estimated savings arise from initial comparisons of projected savings as compared to later comparisons with some actual changes under JRI.

Reinvestment strategies varied considerably across states. According to Harvell et al. (2017), four states made up-front investments via new legislative appropriations before the realization of actual savings, another 12 states implemented both up-front investment and postreform reinvestment strategies, and four states reinvested real savings. Only four states did neither. In total, \$193 million in up-front investments and \$364 million in corrections savings reinvestments were made among JRI states that participated in reinvestment strategies (Welsh-Loveman &

Harvell 2018). Most states' investments focused on expanding community-based treatment programs, postrelease services, and community supervision. A few states injected JRI-related funds into prison programs, victim services, diversion courts, law enforcement agencies, and pretrial diversion programs. None of the JRI states made investments in community revitalization or primary prevention programs in high-incarceration neighborhoods or outside of the justice system.

The fact that at least four states appropriated new monies for JRI through the up-front investment mechanism suggests that under some circumstances, state legislatures can be persuaded to appropriate current dollars based on expectations of future cost savings. The fact that only a few states used the future cost savings argument to support requests for new expenditures suggests that the future cost savings argument did not have a strong appeal to state legislatures. However, the fact that it appealed to some state legislatures raises important questions about how and why it worked in some but not others. A study that considers whether there are lessons to be learned for state budgeting is merited.

The Justice Reinvestment Initiative Did Not Demonstrate That It Contributed to Reductions in Prison Populations

The JRI state assessment reports claimed that for 15 of the 18 states that participated in JRI by 2016 and for whom "sufficient time had passed to warrant analysis," the prison population in 2015 was below what was projected without JRI reforms (Harvell et al. 2017, p. viii). Sufficient time was defined as at least two years of follow-up data since JRI legislative reforms were enacted (Harvell et al. 2017). This assessment was based on comparisons of the projected prison population under JRI reforms to the baseline projected populations that would have occurred had reforms not been implemented. This method allows the prison population to increase under JRI and be counted as a success as long as JRI-projected increases were less than baseline projected increases.

The use of baseline forecasts of future prison populations conducted before a reform is implemented to generate the counterfactual future prison populations that would be obtained without the reforms has merit under certain conditions. The baseline forecasts should be accurate and have low error, and the length of the forecast period over which the comparisons are made should be reasonable. Assumptions about admissions and length of stay, the two determinants of the size of the prison population (Clear & Austin 2017), need to be assessed, along with the accuracy of the forecast models and the forecast error, particularly over the longer run. Of concern is the extent to which the population forecasts adequately assessed these factors. We could not find in the JRI state assessment reports (Harvell et al. 2017) any information indicating that such a critical review of the forecast models was done. We found no evidence that the reviews assessed assumptions, accuracy, or forecast error over the short or long run.

Austin et al. (2013) raised questions about the accuracy of the JRI baseline forecast models. They argued that, in anticipation of participating in JRI, state forecast models used assumptions about admissions growth that were higher than during the period immediately prior to their JRI engagement. This would translate into larger baseline projections of prison populations that would, in turn, put less demand on JRI reforms to affect forecast and actual populations. Austin & Coventry (2014) provide examples of how baseline forecasts in some JRI states did not use all available information; if they had used them, smaller populations would have been forecast and reported JRI impacts may have vanished. The aforementioned absence of information about assessments of the reliability of prison population forecasts leads us to discount the JRI state assessment reports of reductions in prison populations.

Comparisons of differences in prison population growth between JRI and non-JRI states have found negligible reductions in both but larger decreases in non-JRI states. Austin et al. (2013) and



Austin & Coventry (2014) looked at the early years of JRI and compared JRI and non-JRI states on prison population, admissions, and length of stay. The largest decreases in prison populations occurred in four non-JRI states (NY, NJ, MI, and CA). Reductions in admissions due to decreases in parole violators were larger in the non-JRI states, as were the very small changes in length of stay in either group.⁶

A criticism levied against the Austin work is that the selection into JRI was based in part on the assumption of a projected high rate of growth in prison population. In other words, the JRI states would start from a higher base and therefore reductions might be smaller. This claim is questionable. Prison population growth in the United States slowed in the early 2000s (Harrison & Beck 2003, 2004, 2005), and by the mid-2000s when JRI was implemented, prison population growth nationwide was approaching zero growth. Although rates of growth varied among the states, those selected into JRI in 2007 and 2008 (KS, NV, TX, AZ, CT, PA, RI) included a mixture of states with smaller and larger than average growth in prison populations as reported by the BJS (Sabol et al. 2007). The same conclusion applies to the states selected into JRI in 2010 and 2011 (MI, NH, SC, AL, AR, KY, LA, NC, OH) except that several of these JRI states reported decreases in their prison populations in the year or years prior to entry into JRI (West et al. 2010). Overall, in 18 of the 35 states that participated in JRI, declines in prison populations began before their year of entry into JRI.

An alternative approach to identifying causal effects of JRI on prison populations was suggested by Rhodes and colleagues (W. Rhodes, G. Gaes, T. Rich, J. Edgerton, R. Kling, J. Luallen, unpublished report). Using administrative data on persons admitted into and released from state prisons, they adopted a difference-in-difference (DiD) framework to compare pre- and post-JRI population trends in the targeted and comparison populations within JRI states. They defined target and comparison groups based on the severity of sentence served, under the theory that effective sentence length incorporates decision makers' assessments of offender severity and risk (Bushway & Smith 2007; Kuziemko 2007, 2014). The insight behind this approach is that if JRI diverted less serious or lower-risk offenders from prison as expected, their admissions rates would decline following JRI and decline more rapidly than those of their comparison group, the next highest risk category. Their preliminary results for five JRI states found JRI-led reductions in some states but not in others (W. Rhodes, G. Gaes, T. Rich, J. Edgerton, R. Kling, J. Luallen, unpublished report).

The Rhodes' example illustrates an approach not taken to assess impacts of JRI on prison populations. It addresses some of the concerns about selection into JRI by making comparisons within JRI states before and after implementation. It identifies a group (lower level offenders) that should be impacted by JRI reforms and compares changes for that group of offenders with groups that should not be affected by reforms to identify JRI impacts, such as more serious offenders. Finally, it presents a stronger design than the comparisons of actual to projected populations used in the state assessment reports.

The Justice Reinvestment Initiative Did Not Report on Public Safety Impact

We could find no evidence of JRI's impacts on public safety despite touts that "many JRI states have slowed prison growth, reduced overcrowding, and saved taxpayers' money without sacrificing

⁶We updated the Austin et al. comparison between JRI and non-JRI states on prison population growth, extending the period covered through 2016. Our findings were similar to Austin's: Both groups experienced relatively small decreases: California accounted for most of the decrease in non-JRI states, but when California was omitted the non-JRI states still had faster decreases, and several JRI states experienced decreases before participating in JRI. Analyses available upon request of the authors.

public safety and other states are projected to do so.” (LaVigne 2014, p. 2). A core promise of JRI was that states could have smaller prison populations and improved public safety, or at least no decreases in public safety. According to BJA award documentation, one of the OCOA responsibilities was to measure the impacts of the JRI-led policy changes and “assess which JRI strategies yielded the greatest impact on public safety” (BJA 2011, p. 1). In the final state assessment report that was available at the time of this writing, public safety outcomes—specifically crime and recidivism rates—were defined as core system-level measures, but the report omitted any presentation of data on these measures (Harvell et al. 2017). The omission of any information about JRI’s impacts on public safety precludes any assessment of its benefits relative to costs.

Admittedly, identifying JRI’s effects on public safety presents challenges. Given the varied nature of JRI implementation, the many reforms implemented at different times in different ways and the absence of detailed information about the EBPs, designs to measure impacts might require linked data on individuals that measure the interventions they receive and assess their outcomes. Furthermore, there may be a lag between the implementation of JRI and its impacts. However, several states had implemented JRI efforts as early as 2010. By the time of the most recent state assessment report in 2017, there were five to six years to observe impacts in early JRI adopters. This provides a sufficient length of time to conduct at least some preliminary analysis of JRI’s impacts on public safety. Furthermore, there are examples of models that could have been used to attempt to identify the impacts of JRI on public safety. The Bartos & Kurbin (2018) state-level panel with a synthetic control group design to estimate crime rates in the absence of a reform is one such model. Given the variety of approaches taken by states, it seems likely that state-specific assessments would be necessary.

Because of the centrality of public safety to JRI, the absence of a public record of work done on this issue and the absence of evidence about JRI’s impacts on public safety are disappointing gaps in knowledge about what JRI may have accomplished and whether the federal investment paid off.

CONCLUSIONS

As practiced in the United States, justice reinvestment as originally conceived and the JRI have not achieved their goals. The original version of justice reinvestment did not achieve its objective of redirecting a portion of corrections expenditures toward community needs or in devolving accountability for offenders from the state to the local communities in which offenders resided. The JRI, which had success in enrolling states, accelerating the pace of legislative change, and adopting EBPs, did not demonstrate that it led to reductions in prison populations, cost savings, or improvements in public safety.

An appeal of the community-oriented approach of the original justice reinvestment was its aim to rearrange the relationship between communities and corrections systems, as reflected by its emphasis on devolving accountability for offenders to their local communities. At that level, it passes Western’s test for using criminal justice policy to address social problems by encouraging community membership and participation (Western 2018). But the community-oriented approach of the original justice reinvestment does not address funding and implementation challenges. It did not demonstrate that even relatively large reductions in prison populations would generate sufficient savings to address the reinvestment needs; that local communities had sufficient infrastructure to sustain alternatives to incarceration; that states would be willing to devolve authority to the very localities that they blamed for sending them so many prisoners in the first place; that state legislatures would use savings for local community reinvestment as opposed to other state-level budget needs; or that state legislatures would commit to appropriating funds to cover a future stream of



projected savings, i.e., the future funds that would sustain community reinvestment, derived from the offenders diverted from prison. Even if local communities successfully supervised diverted offenders, the benefit of this would accrue to state prisons, which in turn would have to convince state legislatures to appropriate funds to cover the costs of prison populations that would have been obtained without the local justice reinvestment rather than their actual populations. Otherwise, the state support for justice reinvestment would not be sustained. Ultimately, the funding for community reinvestment needs to come from non-justice system sources.

Practically, attempts to try justice reinvestment were short-lived, so we do not know if a model could have been designed to meet the funding and implementation challenges, although we doubt it. The JRI model supplanted the community-oriented justice reinvestment model and become the dominant form of justice reinvestment practiced in the United States.

The JRI was implemented at a time when the federal government emphasized creating, disseminating, and using evidence to support its programs. Other than supporting the use of EBPs, JRI's implementation did not align with the federal government's evidence agenda. Rather than, say, fund a relatively small number of high-quality and proven programs (an OMB preference), JRI enrolled 28 states that implemented approximately as many untested and unproven varieties of reform. Or, rather than first demonstrate the efficacy of a few models and then funding them for broader implementation, JRI optioned for broad implementation of reforms without evidence that they would work. JRI's elevation of enrollment over creating evidence leaves us with scant evidence of its effectiveness in achieving its goals, and no evidence that it improved public safety.

JRI was associated with the adoption of sentencing reforms and with an acceleration of the pace of change, even if the reforms did not address the severity of the sentencing reforms of the 1990s. JRI helped to spread EBPs, especially in community supervision. The upside to the adoption of these reforms is that they have the potential to change the nature of community supervision. At the same time, the downside is that they have the potential to be implemented instrumentally and not in a humanistic manner, as their creators envisioned, unless the culture of community supervision agencies changes. At the time of this writing, federal support for JRI appears to be waning. BJA zeroed out JRI in its FY2019 budget and again in its FY2020 budget (OJP 2018, 2019). This suggests that federal support to assist agencies in the culture change necessary for safe, humane, and effective implementation of the EBP is likely dissipating. JRI's bipartisan approach to reform also found room for political compromises that were crafted around improving the operation of justice agencies.

On the main issues on which it was sold—reducing prison populations and saving costs—the credible evidence of JRI's impacts is weak to null. But by design, JRI could not achieve substantial reductions in prison populations or significant cost savings because it did not deal with violent offenders or those with long criminal histories (other than reserve prison space for them). These offenders make up the vast majority of prisoners. Achieving substantial reductions in the number of violent offenders in prison would have required JRI to address (reduce) the severity of sentencing and (increase) the use of alternatives to prison. These are not issues around which bipartisan compromise could have been easily forged within the confines of the program. Rather, JRI set a relatively low bar for reducing prison populations, oversold the potential cost savings, and ultimately did not deliver evidence that it was responsible for either.

DISCLOSURE STATEMENT

The authors are not aware of any affiliations, memberships, funding, or financial holdings that might be perceived as affecting the objectivity of this review.

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CJI Response to Sabol & Baumann Article

A recent article published by William Sabol and Miranda Baumann attempts to track the history of justice reinvestment in the United States and the effects of the federally funded Justice Reinvestment Initiative (JRI) on participating states.

The article importantly highlights JRI's role as a catalyst for the passage of widespread legislative sentencing reform, including the successful promotion of evidence-based practice and several states' up-front investments in treatment and community supervision to increase capacity.

Yet the article broadly condemns JRI's ability to accomplish its goals while failing to present substantive research or counterfactuals, and dismissing formal evaluations that have assessed individual state efforts with a critical level of nuance and depth. The article's chief failing is its attempt to observe uniformity of goals and outcomes across a deeply heterogeneous set of states, with varied objectives, timelines and contexts. Below are responses to the article's key arguments.

Key Arguments

1. Sabol & Baumann argue that JRI's technical assistance model led to a shift in the focus from community stakeholders to state-level actors.

The authors misunderstand the premise of JRI. At its core, JRI is a state-driven effort that brings together a wide range of criminal justice stakeholders and state leaders to use data to inform policymaking. These stakeholders include state-level agency representatives, legislators and representatives of impacted communities, including defense attorneys, prosecutors and judges, victims of crime, formerly incarcerated individuals, local law enforcement and behavioral health providers. Frequently, as was the case in Nevada's formation of the Advisory Commission on the Administration of Justice (ACAJ), state leaders identify the formal body and membership to lead the JRI process prior to the engagement of technical assistance (TA) providers. To the extent that membership replicates existing power structures in the deliberative and legislative process, JRI does not purport to invert those power structures.

JRI is first and foremost a process to help a state use data to develop, adopt, and implement fundamental changes that reduce spending on high-cost, low-return options and reinvest justice resources toward effective recidivism reduction programs. JRI provides a state with an intensive analytical process it would not otherwise pursue on its own. TA providers typically analyze hundreds of thousands, if not millions, of individual case records across agencies in the state, and help policymakers understand the data, take action to address concerning trends, and build an infrastructure to use data to drive decision-making.

In an attempt to make broad-sweeping claims regarding the program, the authors fail to account for the numerous distinctions both over time and across state engagements. In the years since JRI's formal launch, different federal administrations have altered the programmatic goals and priorities. The states engaged in JRI efforts, moreover, have varied widely in their priorities and level of commitment to policy change both during the policy development and implementation phases. One of the key characteristics of JRI is that the process and direction is state-driven. The JRI process espouses the state-based approach and the effort is by design driven by state stakeholders, informed by state data findings and practices, and JRI-derived policy recommendations are championed by state political leaders.

2. Sabol & Baumann argue that JRI did not fundamentally change the size or oversight function of the justice system.

The JRI program did not seek to fundamentally change the size or oversight function of the justice system overall. Rather, JRI seeks to fundamentally change the way states approach policymaking by embracing data-driven policy solutions that shift the state away from costly, low-return responses like incarceration that fail to improve public safety. Several states that have participated in JRI, however, have nevertheless reduced the use of incarceration for certain crimes and reduced the length of incarceration for others following the passage of legislation developed through the JRI process. This does not detract from the measures other states have taken to reduce their incarcerated populations, including California as mandated by court order, nor do those examples invalidate the significant progress made by JRI states.

As with any deliberative policymaking process, the legislative products of the JRI engagement are subject to political constraints as policy proposals make their way through the legislative process. Nevertheless, Sabol & Baumann acknowledge that state participation in JRI coincided with widespread legislative sentencing reforms, leading to numerous changes including a broad adoption of evidence-based practices.

The authors also point out that the effective adoption of evidence-based practices requires agencies to undergo significant and long-term internal culture change. Yet researchers did not offer any such assessment of the culture change undertaken in the JRI states that adopted evidence-based practices, nor of the implementation assistance furnished by the Bureau of Justice Assistance through JRI to support agencies in the critical and long-term work of culture change.

3. Sabol & Baumann argue that JRI did not demonstrate that it contributed to reductions in prison populations

Each JRI effort is tailored to the specific needs of the state, and those needs often (but not always) include both observed and anticipated growth in the size of their prison populations. Increasingly, state-specific needs also include a growing presence of incarcerated individuals with behavioral health needs, a high rate of return to prison or jail from community supervision, and a high rates of recidivism among released populations. Sabol & Baumann do not attempt to evaluate the JRI efforts based on an individual state's success in targeting their specific needs and areas of concern.

Since the program's inception, states that passed JRI legislation have averted the need for more than 90,000 prison beds when comparing the actual prison population in 2018 to the projected population for 2018 (or the most recent year in the projection), using the baseline projection population in effect at the time legislation was enacted.¹ Not only has JRI helped avert growth in state prison populations, but some states have reduced their prison populations after pursuing JRI. By 2018, states engaged in JRI had reduced the need for 29,079 prison beds.²

In Nevada, state leaders sought JRI support for a number of reasons, including observed growth in the size of the state's prison population as well as a forecast of future prison population growth. While Sabol & Baumann allege nefarious inflation of baseline population numbers, they offer no evidence in support. Moreover, as is frequently the case, estimates of the potential for averted growth used during the ACAJ process relied on a population forecast commissioned by the Nevada Department of Corrections and conducted by an outside contractor prior to the state's JRI involvement.

4. Sabol & Baumann argue that JRI overstated the potential savings

¹ Difference between projected prison population and actual based on projection time period for each justice reinvestment state. This includes pre-2010 justice reinvestment states, and JRI states.

² Sum across all JR and JRI states of difference between actual prison population at time of enactment of justice reinvestment legislation and actual 2018 prison population. This includes pre-2010 justice reinvestment states, and JRI states.

Sabol & Baumann argue that the potential savings from enacting JRI legislation were largely overstated. Yet states report more than \$1 billion in averted costs and savings realized to date as a result of JRI, and Sabol & Baumann offer no alternative calculation. While calculation methodologies have varied, sources have documented significant costs averted and saved due to JRI policy changes.³

States avert prison costs through multiple avenues, including cancelled or postponed prison construction, averted operating costs for new facilities or contracts, reduced marginal costs and reduced average costs in the event of facility closures. Research staff with JRI's TA providers have extensive experience working with state budget officials across the legislature, governor's office, and state agencies to develop nuanced approaches to these calculations. These calculations must also satisfy the scrutiny of legislative fiscal analysts and legislators.

In Nevada, research staff worked extensively with state DOC officials to quantify the marginal cost to incarcerate, including the per-person costs of medical services and correctional programming, as well as the added per-person cost of holding several hundred individuals in a private, out-of-state facility due to overcrowding.

Research staff likewise worked with NDOC officials to analyze the long-term capacity needs of the state, relying on plans developed by the Nevada State Public Works Division detailing the number, capacity, design and cost of new and expanded correctional facilities needed to address the growing prison population. Using provided project timelines, research staff then worked with NDOC to estimate the year in which each project would need to break ground and the anticipated timeline to become operational to determine when new operational costs would begin to accrue.

This level of rigorous analysis has occurred in other JRI engagements when necessary and based on available data. An examination of individual states that involved state leaders and experts would have discovered this level of analysis supporting the JRI process.

5. Sabol & Baumann argue that JRI resulted in several states making upfront investments

JRI states have reported investing more than \$550 million in research-informed strategies to more effectively manage their criminal justice populations. Sabol & Baumann point out that a number of JRI states made upfront investments to expand community-based treatment programs, reentry services and problem-solving courts. The authors then question why some states chose to make up-front investments while others did not. States come to the JRI process in very different financial situations. Some states determine they are unable, at the time a legislation is passed, to invest additional resources into the criminal justice while other states have resources available in the state budget to support new or expand existing services mentioned by the authors.

Calculations of costs saved and costs averted are cumulative and often require several years to begin to accrue. This is particularly true when savings are associated with shorter lengths of stay or averted future

³ Between 2010 and 2016, 12 JRI states reported cumulative cost savings and averted prison construction and operating costs exceeding \$1.1 billion. Samantha Harvell et al., *Reforming Sentencing and Corrections Policy: The Experience of Justice Reinvestment Initiative States*, (Washington, DC: Urban Institute, December 2016). Another analysis using a broader timeframe and additional states estimated that states averted and saved more than \$3 billion. CSG Justice Center estimate of averted costs and savings from pre-2010 JR and JRI states that received technical assistance from the CSG Justice Center 2004–2018.

construction costs, as well as when policy changes have a delayed implementation date, as was the case with Nevada's passage of AB 236.

As a result, 19 states have chosen to provide \$193 million to expand certain programs to better manage and support their justice-involved populations upfront and 18 states have elected to invest \$364 million in subsequent years. These investments both upfront and subsequent to implementation demonstrate the states' ongoing commitment to improving their criminal justice systems.

6. Sabol & Baumann claim that JRI did not report on public safety impact

JRI partners have tracked public safety impacts through a combination of policy evaluations (with control groups or other counterfactuals) and state performance measures to document evidence of maintained or reduced recidivism from policy reforms developed and implemented by states. To date, no fewer than eight policy evaluations with control groups or other counterfactuals have been conducted.⁴ Many JRI states are also tracking aggregate public safety or recidivism trends post-JRI, and researchers who want to understand the record should examine these data. Every JRI state's 2018 crime rate was lower than when it enacted JRI legislation, except Alaska's.⁵

⁴ The Urban Institute assessed the impact of South Carolina's [parole and probation](#) reforms, South Dakota's [sentencing](#) reforms and Idaho's [ID's parole](#) reforms. The Pew Charitable Trusts assessed Missouri's implementation of community supervision [earned compliance credits](#), South Carolina's reduction in [theft penalties](#), Kentucky's [mandatory supervision](#) policy, the implementation of [felony theft threshold changes](#) across numerous states, and the impact on various policies to [reduce community supervision revocations](#).

⁵ U.S. Department of Justice Federal Bureau of Investigation. *Crime in the United States*. Federal Bureau of Investigation, 2004–2018.

About JRI

Over the past decade, partners and states have produced a wealth of resources about JRI. Many of these were published by the Urban Institute who serves as the oversight, coordination, and assessment provider for the initiative. Urban has published two comprehensive assessment reports – [Justice Reinvestment Initiative State Assessment Report](#) (January 2014) and [Reforming Sentencing and Corrections Policy The Experience of Justice Reinvestment Initiative States](#) (December 2016) – has conducted [rigorous assessments of the impact of individual policies in a handful of states](#), and is publishing [one page summaries](#) for each state that participated in JRI. All Urban publications on JRI reside on the Urban JRI [Website](#). JRI partners including The [Council of State Governments Justice Center](#), [Crime and Justice Institute](#), and [The Pew Charitable Trusts Public Safety Performance Project](#) have each released a range of publications as well both on specific states and relevant to the initiative as a whole.

Additional links:

<https://www.cjinststitute.org/publication/justice-reinvestment-mississippi/>

<https://www.cjinststitute.org/publication/justice-reinvestment-utah/>

<https://www.cjinststitute.org/publication/oklahomas-2018-criminal-justice-policy-solutions/>

<https://www.cjinststitute.org/publication/louisianas-reinvestment-into-recidivism-reduction-and-victim-services/>

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NEVADA JRI SUBAWARDS

The Bureau of Justice Assistance (BJA) provides an opportunity for states that have recently passed Justice Reinvestment legislation to apply for funds to support implementation and sustainability of the policies. These “subawards” may be available to any agency responsible for implementing parts of AB 236 to help offset initial implementation costs and/or support sustainability.

For Nevada, BJA is offering a total of \$350,000. Due to federal funding cycles, this total is available in two parts:

- \$150,000 is available for spending through September 2020, and
- \$200,000 is available for spending between October 2020 and September 2021.

These funds are passed through the Crime and Justice Institute (CJI), Nevada’s implementation technical assistance provider. Reimbursement for approved expenditures is also provided by CJI.

Acceptable Uses of Subawards

Subawards are intended to support implementation and sustainability of JRI efforts. Following is a description of what BJA considers acceptable uses of this funding:

- *Training*: develop and/or deliver training to increase an agency’s adherence to evidence-based practices (especially around improving recidivism and desistance outcomes);
- *Technical Assistance*: bring in experts to provide technical assistance not available through CJI (e.g., IT expertise or certain training curricula);
- *Performance Measurement*: equipment, software, systems, or services that facilitate data collection, analysis and visualization;
- *Key Personnel*: support personnel and fringe costs associated with hiring staff to support justice reinvestment goals (e.g., a JRI coordinator);
- *Evaluation Staff or Services*: support staff or external providers to evaluate interventions, policies, or strategies implemented as part of JRI; and
- *Other uses*: support staff travel, purchase of equipment, development of technology, or other purposes not listed above but that are necessary to successfully and sustainably implement JRI policies.

Accessing Subawards

The Sentencing Commission is coordinating subaward requests and will:

- Distribute an application to all agencies involved in implementing AB 236 and invite any with an interest to apply for the funding;
- Review all applications submitted by the due date;
- Determine which to prioritize;
- Compile an application to BJA with all prioritized funding requests, with support from the Department of Sentencing Policy and CJI.

CJI will submit the application to BJA for review and approval. BJA’s review may take up to 3 months for approval. Any spending before BJA approval and the establishment of a subcontract with CJI *cannot* be reimbursed.

NEVADA JRI SUBAWARD REQUEST FORM

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

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

Applicant Information	
Applicant organization:	Click here to enter text.
Applicant address:	Click here to enter text.
Point of contact name:	Click here to enter text.
Point of contact email:	Click here to enter text.
Point of contact phone:	Click here to enter text.

Project Information	
Title of project:	Click here to enter text.
Proposed project start date:	Click here to enter text.
Proposed project end date:	Click here to enter text.
Total amount requested:	Click here to enter text.

Project Narrative
<i>Why do you need these funds and what will you do with them? Describe the proposed use of the funds requested and how that use will support JRI Implementation. If requesting funds to support personnel or contractors, specify the qualifications, roles, and responsibilities for the position(s) or contractor(s).</i>
Click here to enter text.

Budget	
Budget Category	Amount
Personnel/Direct Labor	
Fringe	
Travel	
Equipment	
Supplies	
Consultants/Contracts	
<i>Total Project Costs</i>	

Budget Narrative
<p><i>For each applicable budget category above, <u>briefly</u> describe the proposed expenses, how you estimated the costs and why those costs are necessary for the completion of the proposed project.</i></p> <p>Click here to enter text.</p>

ESTABLISHMENT OF THE NEVADA LOCAL JUSTICE REINVESTMENT COORDINATING COUNCIL

NEVADA SENTENCING COMMISSION

FEBRUARY 19, 2020



NRS 176.014

- Section 8 of Assembly Bill No. 236 (2019)
- 19 Members
 - One member from each county whose population is less than 100,000
 - Two members from each county whose population is 100,000 or more

APPOINTMENT OF MEMBERS TO COUNCIL

- Members must be appointed by the governing body of the applicable county
- Chair of the Sentencing Commission appoints the chair of the council
- Members serve 2-year term

DUTIES OF COUNCIL

- Advise Commission on recommendations on issues related to the enactment of AB236 as it relates to local governments
- Identify needs for programming at the local level
- Provide recommendations regarding grants to local governments and non-profits
- Oversee implementation of local grants
- Create performance measures to assess effectiveness of grants
- Identify opportunities for collaboration with certain agencies for treatment services and funding

DUTIES OF COMMISSION IN RELATION TO COUNCIL

- Provide staff to the Council to the extent of legislative appropriation
- Receive recommendations from the Council

PROPOSAL TO ESTABLISH COUNCIL

- Commission approve the Department to provide staff support to Council
- Department solicit appointments with letter
- Contents of letter
 - Description of Council
 - Membership
 - Duties
 - Deadline to appoint member
- Future agenda: Chair of Commission appoint Chair of Council



QUESTIONS?



AB 236 REQUIRED PERFORMANCE AND OUTCOME MEASURES

Department of Corrections

Prison Admissions
Total Number of Persons Admitted
Total Number of Persons Admitted <i>by Type of Offense</i>
Total Number of Persons Admitted <i>by Type of Admission</i>
Total Number of Persons Admitted <i>by Felony Category</i>
Total Number of Persons Admitted <i>by Prior Criminal History</i>
Total Number of Persons Admitted <i>by Gender Identity or Expression</i>
<i>Total Number of Persons Admitted by Race</i>
Total Number of Persons Admitted <i>by Ethnicity</i>
Total Number of Persons Admitted <i>by Sexual Orientation</i>
Total Number of Persons Admitted <i>by Age</i>
Total Number of Persons Admitted <i>by Risk Score (if measured on intake)</i>
Average Minimum Sentence Term
Average Minimum Sentence Term <i>by Type of Offense</i>
Average Minimum Sentence Term <i>by Type of Admission</i>
Average Minimum Sentence Term <i>by Felony Category</i>
Average Minimum Sentence Term <i>by Prior Criminal History</i>
Average Minimum Sentence Term <i>by Gender Identity or Expression</i>
<i>Average Minimum Sentence Term by Race</i>
Average Minimum Sentence Term <i>by Ethnicity</i>
Average Minimum Sentence Term <i>by Sexual Orientation</i>
Average Minimum Sentence Term <i>by Age</i>
Average Minimum Sentence Term <i>by Mental Health Status</i>
Average Minimum Sentence Term <i>by Risk Score (if measured on intake)</i>
Average Maximum Sentence Term
Average Maximum Sentence Term <i>by Type of Offense</i>
Average Maximum Sentence Term <i>by Type of Admission</i>
Average Maximum Sentence Term <i>by Felony Category</i>
Average Maximum Sentence Term <i>by Prior Criminal History</i>
Average Maximum Sentence Term <i>by Gender Identity or Expression</i>
<i>Average Maximum Sentence Term by Race</i>
Average Maximum Sentence Term <i>by Ethnicity</i>
Average Maximum Sentence Term <i>by Sexual Orientation</i>
Average Maximum Sentence Term <i>by Age</i>
Average Maximum Sentence Term <i>by Mental Health Status</i>
Average Maximum Sentence Term <i>by Risk Score (if measured on intake)</i>

Clinical Assessment
Number of Persons who Received a Clinical Assessment Identifying a <i>Mental Health or Substance Use Disorder Upon Intake</i>
Number of Persons who Received a Clinical Assessment Identified with <i>Mental Health Disorder Upon Intake</i>
Number of Persons who Received a Clinical Assessment Identified with <i>Substance Use Disorder Upon Intake</i>
Length of Stay
Average Length of Stay in Prison
Average Length of Stay in Prison <i>by Type of Offense</i>
Average Length of Stay in Prison <i>by Felony Category</i>
Average Length of Stay in Prison <i>by Prior Criminal History</i>
Average Length of Stay in Prison <i>by Gender Identity or Expression</i>
Average Length of Stay in Prison <i>by Race</i>
Average Length of Stay in Prison <i>by Ethnicity</i>
Average Length of Stay in Prison <i>by Sexual Orientation</i>
Average Length of Stay in Prison <i>by Age</i>
Average Length of Stay in Prison <i>by Mental Health Status</i>
Average Length of Stay in Prison <i>by Risk Score (if measured on intake)</i>
Releases
Total Number of Persons Released from Prison
Total Number of Persons Released from Prison <i>by Type of Release</i>
Total Number of Persons Released from Prison <i>by Type of Admission</i>
Total Number of Persons Released from Prison <i>by Felony Category</i>
Total Number of Persons Released from Prison <i>by Prior Criminal History</i>
Total Number of Persons Released from Prison <i>by Gender Identity or Expression</i>
Total Number of Persons Released from Prison <i>by Race</i>
Total Number of Persons Released from Prison <i>by Ethnicity</i>
Total Number of Persons Released from Prison <i>by Sexual Orientation</i>
Total Number of Persons Released from Prison <i>by Age</i>
Total Number of Persons Released from Prison <i>by Mental Health Status</i>
Total Number of Persons Released from Prison <i>by Risk Score (if measured on intake)</i>
Recidivism
Recidivism Rate from Prison
Recidivism <i>by Type of Release</i>

Returns to Prison
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Type of Admission</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Type of Release</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Type of Return to Prison (new felony or parole revocation)</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Prior Criminal History</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Gender Identity or Expression</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Race</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Ethnicity</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Sexual Orientation</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Age</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Mental Health Status</i>
Total Number of Persons Released From Prison Each Year Who Return to Prison within 36 Months <i>by Risk Score (if measured on intake)</i>
In Prison on 12/31
Total Number of Persons in Prison on 12/31 (not including parole housing units)
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Type of Offense
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Type of Admission
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Felony Category
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Prior Criminal History
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Gender Identity or Expression
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Race
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Ethnicity
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Sexual Orientation
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Age

Total Number of Persons in Prison on 12/31 (not including parole housing units) by Mental Health Status
Total Number of Persons in Prison on 12/31 (not including parole housing units) by Risk Score (if measured on intake)
Total Number of Persons in Prison on 12/31 Granted Parole but Remain in Custody
Reasons for Remaining in Custody Past Parole Grant Date
Total Number of Persons Held in Prison on 12/31 Serving LWOP
Total Number of Persons Held in Prison on 12/31 Sentenced to Death
Prison Treatment Programs
Total Number of Persons in Prison as of 12/31 Who Started a Treatment Program While In Prison
Total Number of Persons in Prison as of 12/31 Who Started a Treatment Program While In Prison <i>by Type of Treatment Program</i>
Total Number of Persons in Prison as of 12/31 Who Started a Treatment Program While In Prison <i>by Type of Offense</i>
Total Number of Persons as of 12/31 Each Year Who Have Completed a Treatment Program While in Prison
Total Number of Persons as of 12/31 Each Year Who Have Completed a Treatment Program While in Prison <i>by Type of Treatment Program</i>
Total Number of Persons as of 12/31 Each Year Who Have Completed a Treatment Program While in Prison <i>by Type of Offense</i>
Total Number of Persons as of 12/31 Each Year Awaiting a Treatment Program While in Prison
Total Number of Persons as of 12/31 Each Year Awaiting a Treatment Program While in Prison <i>by Type of Treatment Program</i>
Total Number of Persons as of 12/31 Each Year Awaiting a Treatment Program While in Prison <i>by Type of Offense</i>

Division of Parole and Probation

Supervision Intakes
Number of Persons with Probation Intake
Number of Persons with Probation Intake <i>by Type of Offense</i>
Number of Persons with Probation Intake <i>by Felony Category</i>
Number of Persons with Probation Intake <i>by Prior Criminal History</i>
Number of Persons with Probation Intake <i>by Gender Identity or Expression</i>
Number of Persons with Probation Intake <i>by Race</i>
Number of Persons with Probation Intake <i>by Ethnicity</i>
Number of Persons with Probation Intake <i>by Sexual Orientation</i>
Number of Persons with Probation Intake <i>by Age</i>
Number of Persons with Probation Intake <i>by Mental Health Status</i>
Number of Persons with Probation Intake <i>by Risk Score (if measured on intake)</i>
Number of Persons with Parole Intake
Number of Persons with Parole Intake <i>by Type of Offense</i>
Number of Persons with Parole Intake <i>by Felony Category</i>
Number of Persons with Parole Intake <i>by Prior Criminal History</i>
Number of Persons with Parole Intake <i>by Gender Identity or Expression</i>
Number of Persons with Parole Intake <i>by Race</i>
Number of Persons with Parole Intake <i>by Ethnicity</i>
Number of Persons with Parole Intake <i>by Sexual Orientation</i>
Number of Persons with Parole Intake <i>by Age</i>
Number of Persons with Parole Intake <i>by Mental Health Status</i>
Number of Persons with Parole Intake <i>by Risk Score (if measured on intake)</i>
Term of Supervision
Average Term of Probation Imposed for Persons on Probation
Average Term of Probation Imposed for Persons on Probation <i>by Type of Offense</i>
Average Time Served by Persons on Probation
Average Time Served by Persons on Probation <i>by Type of Discharge</i>
Average Time Served by Persons on Probation <i>by Felony Category</i>
Average Time Served by Persons on Probation <i>by Type of Offense</i>
Average Time Served by Persons on Parole
Average Time Served by Persons on Parole <i>by Type of Discharge</i>
Average Time Served by Persons on Parole <i>by Felony Category</i>
Average Time Served by Persons on Parole <i>by Type of Offense</i>

Time Credited
Average Time Credited to a Person's Term of Probation Due to Successful Compliance
Average Time Credited to a Person's Term of Parole Due to Successful Compliance
Supervision Discharges
Total Number of Probation Discharges <i>by Type of Discharge</i>
Total Number of Honorable Discharges from Probation
Total Number of Dishonorable Discharges from Probation
Total Number of Cases Resulting in Return to Prison from Probation
Total Number of Parole Discharges <i>by Type of Discharge</i>
Total Number of Honorable Discharges from Parole
Total Number of Dishonorable Discharges from Parole
Total Number of Cases Resulting in Return to Prison from Parole
Recidivism Rate of Person Discharged from Probation
Recidivism Rate of Person Discharged from Probation <i>by Type of Discharge</i>
Recidivism Rate of Person Discharged from Parole
Recidivism Rate of Person Discharged from Parole <i>by Type of Discharge</i>
Behavioral Health on Supervision
Total Number of Persons on Probation Identified as <i>Having a Mental Health Issue</i>
Total Number of Persons on Probation Identified as <i>Having a Substance Use Disorder</i>
Total Number of Persons on Parole Identified as <i>Having a Mental Health Issue</i>
Total Number of Persons on Parole Identified as <i>Having a Substance Use Disorder</i>
In-state on Supervision
Total number of Persons on Probation Located in State on 12/31 of Each Year (excluding person in the custody of DOC)
Total number of Persons on Parole Located in State on 12/31 of Each Year (excluding person in the custody of DOC)
Revocations
Total Number of Probation Revocations
Reasons for Probation Revocations
Probation Revocation <i>as Result of Mental Health Issue</i>
Probation Revocation <i>as Result of Substance Use Disorder</i>
Total Number of Parole Revocations
Reasons for Parole Revocations
Parole Revocation <i>as Result of Mental Health Issue</i>
Parole Revocation <i>as Result of Substance Use Disorder</i>
Time Credited
Average Time Credited to a Suspended Sentence or Remainder of the Sentence from Time Spent on Supervision

Administrative Sanctions
Number of Non Jail Administrative Sanctions Administered
Number of Non Jail Administrative Sanctions Administered <i>by Type of Offense</i>
Number of Non Jail Administrative Sanctions Administered <i>by Felony Category</i>
Median Number of Administrative Jail Sanctions
Median Number of Administrative Jail Sanctions <i>by Type of Offense</i>
Median Number of Administrative Jail Sanctions <i>by Felony Category</i>

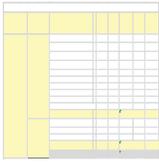
Central Repository for Nevada Records of Criminal History

Crime Rates
State Crime Rate
State Index Crime Rates
State Crime Rate <i>by Type of Crime</i>
County Crime Rates
County Index Crime Rates
County Crime Rate <i>by Type of Crime</i>
Percent Change in State Crime Rate
Percent Change in State Index Crime Rates
Percent Change in State Crime Rate by Type of Crime
Percent Change in County Crime Rates
Percent Change in County Index Crime Rates
Percent Change in County Crime Rate by Type of Crime

Sentencing Commission

Reinvestment
Total Annual Amount of Savings
Total Annual Costs Avoided
Entities that Received Reinvestment Funds by Each Entity
Total Amount of Reinvestment Funds Directed to Each Entity
Description of How the Reinvestment Funds Were Used

LVMPD Statistical Data



Year	Murder Total	Murder Rate	Population
2010	110	7.6	1,447,079
2011	78	5.4	1,432,590
2012	77	5.3	1,446,632
2013	101	7.0	1,446,637
2014	114	7.7	1,466,831
2015	125	8.3	1,498,142
2016	157	10.3	1,524,142
2017*	141	8.9	1,577,542
2018	121	7.5	1,603,819
2019	83	5.1	1,617,310



METRO CRIME	Activity Type	Crime Category	#	YTD 2019	YTD 2018	19 v 18 Percent Change	YTD 2017	19 v 17 Percent Change
		Shooting Victims Within Persistent Hotspots		83	119	-30.3%	141	-41.1%
				1390	1555	-10.6%	1237	12.4%
				1029	1132	-9.1%	1048	-1.8%
				361	423	-14.7%	189	91.0%
		Robbery		1,933	2,505	-22.8%	3,465	-44.2%
		Aggravated Assault		4,722	5,101	-7.4%	5,590	-15.5%
		04a - Firearm		1,803	1,982	-9.0%	2,211	-18.5%
		04b - Knife or Cutting Instrument		1290	1261	2.3%	1385	-6.9%
		04c - Other Dangerous Weapon		1073	1170	-8.3%	1302	-17.6%
		04d - Hands, Fist, Feet etc		556	688	-19.2%	692	-19.7%
		Total Violent	#	8,128	9,280	-12.4%	10,433	-22.1%
	Property Crimes	Burglary		10,178	11,634	-12.5%	13,093	-22.3%
		Larceny Theft		26,997	25,928	4.1%	26,443	2.1%
		Motor Vehicle Theft		7,053	7,596	-7.1%	8,470	-16.7%
		Total Property	#	44,228	45,158	-2.1%	48,006	-7.9%
	Total Crime			52,356	54,438	-3.8%	58,439	-10.4%

Key Points:

- In the fall of 2017, the Las Vegas Metropolitan Police Department (Metro) began preparing the crime fighting plan for 2018. In previous years there was a consistent trend of crime spikes in January and February.
- Metro's analytical section (ANSEC) produced strategic analysis aimed at decision makers to identify strategies to address crime hot spots during the first quarter of the year. Evidence-based policing research continues to show hot spot policing is an effective crime reduction strategy. To determine the persistent hot spots, street level violence and firearm data were used to create hot spots. ANSEC identified 11 persistent hot spots and within those persistent areas, micro-hotspots and problem people were identified.
- The crime fighting strategy consisted of enforcement and non-enforcement strategies. This plan increases both public and private guardianship of our communities.
- The increase of officers matters greatly but what these officers do matters more.

Crime Statistics:

- When compared to 2018, violent crime is currently down 12.4%, property crime is down 2.1%, and total crime is down 3.8%.
 - Murder has decreased by 30.3% (119 v 83)
 - Rape has decreased by 10.6% (1,555 v 1,390)
 - Robbery has decreased by 22.8% (2,505 v 1,933)
 - Aggravated Assault has decreased by 7.4% (5,101 v 4,722)
 - Property crimes have decreased by 2.1% (45,158 v 44,228)
- When comparing 2017 to 2019, violent crime is down 22.1%, property crime is down 7.9%, and total crime is down 10.4%.
 - Murder has decreased by 41.1% (141 v 83)
 - Rape has decreased by 12.4% (1,237 v 1,390)
 - Robbery has decreased by 44.2% (3,465 v 1,933)
 - Aggravated Assault has decreased by 15.5% (5,590 v 4,722)
 - Property crimes have decreased by 7.9% (48,006 v 44,228)
- Murder
 - As the population continues to grow, LVMPDs Murder numbers continue to decline.
 - Currently, LVMPD has 83 murders for 2019. We have not seen Murder numbers this low since 2011 and 2012.
 - Currently, the Murder clearance rate for all murders is 87% (72 cases cleared; 11 open). This is considerably higher than the average murder clearance rate in the United States at approximately 62%.
 - LVMPD has had 10 murders in the persistent hotspots, compared to 24 in 2018.
- Shooting Victims
 - The number of shooting victims has declined since 2017. There are 210 in 2019, 236 in 2018, and 271 in 2017. Shooting Victims are counted by victims injured by a bullet fired from a gun and are reconciled daily to eliminate accidental discharge/self-inflicted shootings.

- The number of shooting victims within the persistent hotspots has decreased 43.1% (33 v 58) when compared to last year. When compared to 2017, they have decreased 44.07% (33 v 59).
- Robbery
 - Robbery continues to decline. We are currently at a 22.8% reduction when compared to last year. A hypothesis for this may be that we have increased both public and private guardianship of our communities.
 - LVMPD has 20 robbery series in 2019, compared to the 29 in 2018, and 55 in 2017.
 - The current Robbery series clearance rate is 85% (17 cleared; 3 open).