

Steve Sisolak
Governor

Victoria Gonzalez
Executive Director



Justice Lidia Stiglich
Chair
Nevada Sentencing Commission

Christine Jones Brady
Vice Chair
Nevada Sentencing Commission

**STATE OF NEVADA
DEPARTMENT OF SENTENCING
POLICY**

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**NEVADA
SENTENCING COMMISSION**

MINUTES DRAFT

Date and Time:

May 9, 2022, 9:00 AM

Locations:

**Legislative Building, Room 4100
401 South Carson Street
Carson City, Nevada**

**Grant Sawyer Building, Room 4401
555 East Washington Avenue
Las Vegas, Nevada**

MEMBERS PRESENT

John Arrascada
Chief Michelle Bays
Dr. Shera Bradley
Director Elisa Cafferata
Chuck Callaway
Director Charles Daniels
Chairman Christopher DiRicco
D.A. Chris Hicks
Jim Hoffman
Chief Natasha Koch
Dr. Jennifer Lanterman
John McCormick
Julia Murray
Holly Welborn
Assemblyman David Orentlicher
Assemblyman Tom Roberts
Justice Elissa Cadish (Non-Voting
Designee)

MEMBERS EXCUSED

Judge Scott Freeman
Judge Tierra Jones
Kimberly Mull
Jon Ponder
Senator Nicole Cannizzaro
Senator Pete Goicoechea
Christine Jones-Brady – Vice Chair
Justice Lidia Stiglich – Chair

STAFF

Executive Director, Victoria Gonzalez
Monica Chiazza, Management Analyst
Jorja Powers, Policy Analyst
Lisa Arellano, Administrative Assistant

1. Call to Order / Roll Call

[Meeting called to order at 9:00 a.m.]

Justice Elissa Cadish (Acting Chair): I'm going to call to order the May meeting of the Nevada Sentencing Commission. Good morning, let me first start by saying, contrary to the name tag in front of me, I am not Justice Lidia Stiglich. Justice Stiglich unfortunately was unable, unexpectedly, to be here this morning. She asked me to stand in for her today. I am Elissa Cadish, also a Justice of the Nevada Supreme Court. It is great to see everyone here today. This is the fifth meeting of the 2021-2023 meeting cycle and it is great to see everyone in person again. I understand this is the first in-person meeting for the cycle, so that's great. Welcome to those viewing this meeting on the Department of Sentencing Policy's YouTube channel.

We do have a new member of our Commission, Chief Tom Lawson of the Nevada Division of Parole and Probation recently retired. His successor is Chief Natasha Koch, we have here, and she has already been appointed to the Commission. Welcome to the Sentencing Commission. We'll have our first meeting together.

I do want to address some housekeeping matters for our first in-person meeting today. First, I am designating Chuck Callaway in Las Vegas as the point person there to assist regarding hearing public comment and fielding questions from the Commission members there, so thank you for your assistance there, Mr. Callaway.

Next, we do have a pretty full agenda today. We'll be taking a lunch break at some point. It's my understanding everyone was advised to bring a lunch for that anticipated schedule today because we don't have food options available within the building. I appreciate that everyone came prepared today. During the lunch break, you will have time to enjoy your lunch in the designated areas in the respective buildings, both here in Carson and in Las Vegas.

I think everyone knows the rules in these buildings, I'm still learning them, but as a refresher, if you're speaking from the dais or coming up to the tables to testify, please make sure you hit the microphone button and speak clearly into the microphone. When you are done speaking, hit the microphone button again to turn off the mic. Please remember to state your name clearly each time before you speak and of course that's important to staff, we're going to be taking minutes later so it's very helpful if we do know who is speaking at any given time.

At this point, and with the appreciation for your patience with me reading a script here today, I will ask Director Gonzalez to take the roll at this time.

Executive Director, Victoria Gonzalez: Thank you, Chair.

(ROLL CALL CONDUCTED BY DIRECTOR. GONZALEZ: QUORUM IS MET.)

2. Public Comment

Justice Cadish: Thank you. I will now open agenda item 2, which the first period of public comment. There are two periods of public comment. One at the beginning of the meeting and one at the end. Because of the length of our agenda, I will limit public comment to three minutes. Members of the public have two options for submitting public comments. First, members of the public may do so in writing by emailing the Department of Sentencing Policy at SentencingPolicy@ndsp.nv.gov. Public comment received in writing will be provided to the Commission and be included by reference in the meeting minutes.

The second is speaking in person. If there is any public comment, either here in Carson City or Las Vegas, please make your way to the table. As a reminder, we do limit public comment to three minutes per speaker. We will be timing up here. When you get close to your three minutes, I will ask you to wrap up. Let us please

start here in Carson City. Is there anyone for public comment here in Carson City? Seeing none, is there any public comment in Las Vegas? Mr. Callaway, is there anyone there?

Chuck Callaway: I see no one, Chair.

Justice Cadish: Great, thank you so much then, with no testimony then, I will close the first period of public comment. As a reminder, to those in attendance, we will have public comment at the end of the meeting as well. If you do still wish to speak, you will have that opportunity at the end of the meeting.

3. Approval of the Minutes of the Meeting of the Nevada Sentencing Commission held on April 20, 2022

Justice Cadish: Moving on to agenda item three, Members of the Commission have been provided copies of the minutes from the April 20, 2022, meeting. Are there any edits, comments, or corrections to those minutes?

Hearing none, I will now entertain a motion to approve the minutes from the April 20, 2022, meeting, Is there a motion?

JOHN MCCORMICK MOVED TO APPROVE THE MINUTES OF APRIL 2022, MEETING

JOHN ARRASCADA SECONDED THE MOTION

MOTION PASSED UNANIMOUSLY

4. Report from the Executive Director of the Nevada Department of Sentencing Policy

Justice Cadish: I will now open agenda item four, which is a report from our Director at the Department of Sentencing Policy.

The Director is statutorily mandated to report to the Commission on sentencing and related issues regarding the functions of the Department. We have her provide this report and update us on their recent activities at each regular meeting of the Nevada Sentencing Commission. Director, please proceed.

Director Victoria Gonzalez: Thank you, Chair. Good morning, members of the Commission, it's great to see you all here in person. To begin with my report, I don't have a lot of supporting materials, we will direct your attention to those as we mentioned them. One of the things I wanted to report to this Commission is where we're at with our budget build. We are currently in the process of our budget build for the Commission, for our department, and what also includes the Coordinating Council. We will have, we're still working on those requests, we will have a formalized presentation of those requests and changes that we're looking at making when we present to this Commission at the August meeting. We'll be looking for the Commission's input and approval at that meeting. Then just so you all know, for those of you that don't know, the budget request is due September 1. We're working very hard to put those requests together and have them prepared for the August meeting that can be submitted in time for the September 1 deadline.

I want to update the Commission; we're going to talk about what's going on with our data. One of the things that we've talked about is, what I am hoping to help facilitate this Commission with is, our statutory mandate is very data driven, and data informed, so wanted to make sure that we are consciously and intentionally working on our efforts on how to improve the data. We're going to talk about an opportunity here towards the end of my report. One of the things I wanted to update the Commission on was the dashboard that we presented at the February meeting. Our intent is to update that monthly, we've updated how the notation beneath the dashboard so you can see when it was last updated. When it's updated, it is updating from the month previous. So that includes population data from the previous month. Right now, it says it was updated

in March, which means it has data from through the end of February. We get that data from the Department of Corrections and as we know, everybody's struggling with their staffing, and so as soon as they're able to generate that data and get it to us, then we're able to upload it. If you ever have any questions, or any of your constituents or partners have any questions about the dashboard, please send them our way and we will be happy to help them and let them know where we're at in updating that.

I wanted to let this Commission know too, in our efforts to improve our data, get to know the data, figure out where the gaps are, we have monthly meetings, both with our partners at the Department of Corrections and the Division of Parole and Probation. One of the things we talk about on a monthly basis is what data are we working on gathering and collecting towards that comprehensive report that will be put together and is due January 15th. We also work with them on what are challenges that we're facing and data. How can we improve our data? What are things that either our staff can do, or their staff can do to help improve our data collection and aggregation? Again, everybody is facing staffing challenges right now and we're looking for solidifying those partnerships and helping each other and we really appreciate those partnerships we have at those agencies.

We also have bi-weekly meetings with the CJI implementation team. As many of you know, when AB 236 was enacted, CJI provided technical assistance to assist with implementation. They work with agencies on a regular basis to assist with any support they need in implementing AB 236. We are one of those agencies as well, we meet with them twice a month and talk about what are other opportunities we can do for data, things we can do to improve policy. You can see a lot of the work that the update we're going to have today about the subawards is through our regular meetings with them, but they're helping us trying to figure out other things and opportunities we can pursue to improve our data. Then again, as I mentioned, the comprehensive report is going to be due January 15th, and so as we work throughout the rest of the year and solidify our data collection aggregation from these other agencies, we are working towards that January 15th deadline and will intend to present to this Commission at the November meeting, a draft of that comprehensive report and what we're hoping to submit by January 15th.

The next thing we wanted to update you on was what we talked about last meeting, in the February meeting, was what we call the Reentry Summit. There's been a need identified to figure out and assess what's happening with the reentry opportunities and challenges in our State. We had come up with an idea to start what we call the Reentry Summit. I'm going to turn the time over to our staff Jorja Powers who's taking the lead on that summit.

Jorja Powers: Thank you, Director, and good morning, Commission. I just want to provide a brief update on the subject that we've been researching on reentry. I've been working with Vice Chair Brady, other commission members and stakeholders throughout Nevada to begin identifying existing programs and gaps in service to strengthen reentry in Nevada.

We are in the research stages of a coalition of agencies, stakeholders, and community partners to discuss the strengths and weaknesses of current reentry resources. The development of a forum on the subject is also being discussed with workshops to identify, consider, brainstorm and plan for the needs of Nevada's returning citizens. We are reaching out to entities and to individuals who touch the lives of the justice-involved individuals regarding these opportunities. We would like to create a holistic data-driven community-based approach to facilitating collaboration for possible solutions. This comes at a great time when the U.S. is recognizing and embracing the need for changes in reentry services. The nationwide initiative Reentry 2030, focusing on successful reintegration into the community, was announced in April during Second Chance month and supported in a statement from the White House. This initiative recognizes that reentering citizens face immense struggles in finding resources including but not limited to employment, substance use, mental health treatment services, education, and health care. You will be hearing more on this subject in the future from us. Thank you.

Director Gonzalez: Thank you, Ms. Powers. In the last week, we discovered an opportunity called Justice Counts, which is going to be an incredible opportunity for this Commission and for the State as a whole. I'm going to turn the time back over actually to Ms. Powers to explain what Justice Counts is, and then I will explain what our proposed actions are to move forward in these efforts. In your materials, you have a couple of items we've included to explain this and Ms. Powers will reference that as well.

Ms. Powers: Thank you, Director. Justice Counts is an initiative of the US Department of Justice's Office of Justice Programs Bureau of Justice Assistance, BJA, led by the Council of State Governments CSG, their justice center, to help criminal justice policymakers across the country make better decisions with data that's accurate, accessible, and actionable. The initiative will aid criminal justice policy makers and agencies across the country to make data-driven decisions using more accurate, timely and cohesive information. You have an overview in your packet, it looks like this. We are often forced to make critical decisions about criminal justice policy and public safety using limited or stale criminal justice data. The project will collect local and state level criminal justice data within defined metrics and display the information on a web-based dashboard accessible to all. Technical assistance will be provided for states that adopt Justice Counts as an approach to creating a culture of data-driven criminal justice policymaking. Also in your packets are the tier one metrics that they have provided. The project's tier one metrics cover six categories: capacity and costs, population movements, operations and dynamics, public safety, equity, and fairness for each of the following sectors of criminal justice: law enforcement, prosecution, defense, courts and pretrial, jails, prisons, and supervision.

Justice Counts is offering two opportunities to become involved. Ten states can be part of the founding state program, and 15 states may apply to the implementation grant program. Interested states must take steps to participate and become justice count states. To start, the technical assistance must be requested. The next step would be to conduct an assessment of current data infrastructure. The project requires a designated assessment be taken by each of the state's identified criminal justice categories from the metrics. Director Gonzalez will address this shortly.

In closing, the project points out that much of the data needed to fulfill the metrics request probably already exists. The difficulties come with the extraction, aggregation and sharing of that data. And this tracks with what we have found regarding our own Nevada data. This exciting prospect comes as an opportune time in Nevada's criminal justice data quest. The technical and monetary support opportunities available to chosen states could comprehensively assist Nevada in reaching the data goals we have already identified and initiated. With current funding, staffing, and data access challenges, participation in Justice Counts would give Nevada access to expert assistance to grow our data capabilities exponentially, and allow for the data-driven, data-informed policies we all work toward to support our criminal justice components and policymakers while striving for fair, productive criminal justice processes and safe communities. I'll turn it back over to Director Gonzalez.

Director Gonzalez: Thank you, Ms. Powers. We are really excited about this opportunity and we're excited about just learning about it last week. We think the chance for us to act on this very quickly and become one of the 10 or 15 states is perfectly timed as Jorja mentioned for this Commission. One of the things they provided is a toolkit to guide the states who are interested in this, and looking to shore up their data, as we've been talking about and helping us address those gaps is, being able to have a public body that can help guide the policy and help be the leader in this. Luckily for us, we already have one of those, and that's this public body and our statutory mandate is right in line with this. I'm really excited about this opportunity; I think for this Commission and for our Department to be the leader in criminal justice data as exactly this Commission was designed and intended to do, and we would have the support to do this.

As we know, we are facing a lot of challenges right now with staffing issues and we are not exempt from this. We are actually down somebody else right now, our data person, because there's a lot of opportunities out there for everybody. This is coming at a perfect time for us to again, for us to move on with this. We intend to take this opportunity right now and start taking those steps to request technical assistance. What

that would include is our proposal right now, it would be to first, we have an opportunity, I'll be making a presentation to the Interim Judiciary Committee on Friday at the Legislature to introduce the Commission and our Department to that public body. The Legislature is still getting to know who we all are, we're relatively new to this and we are finding our space in being able to offer data and policy analysis for the criminal justice system. What I intend to propose at that meeting is they're looking for opportunities for BDR's and resolutions, would be to pass a resolution that would make Nevada a Justice Counts state, which would show our interest in participating in these data efforts. After that, what we would intend to do is work with the Chair and the Criminal Justice agencies to submit a request for technical assistance. They have provided template letters that we can submit to request the technical assistance and of course we would talk about what this body has already been established to do. We have members from every area of the criminal justice system, and we have those relationships. We think this opportunity for us to take the lead on submitting this letter with the criminal justice agency partners would be an amazing opportunity for us. Our intent too would be to reach out to the specific stakeholders that would be needed to complete the assessments. As Ms. Powers mentioned, there's an assessment they would like to see where we are right now and we know the challenges right now with data and so we know exactly who we'd be able to reach out to, to complete those assessments.

Then again, this will not only assist this Commission filling our gaps that we already see in trying to collect the data, but it will really launch us forward in what we're able to do in developing policy and having all that data available for the State to rely on when it comes to what policy are they looking to develop. This Commission would be the leader in that, in a way I don't think we've ever been able to see before in this State.

We might also consider revising some of the duties related to the Commission as so much of what we do is data driven and there are some very sentencing specific mandates in there. As we've learned from our meetings already from our first couple of years what this Commission does is not just limited to sentencing per se but it embodies everything in the criminal justice system. It might be worth looking at that at some point to broaden or eliminate some of those more specific duties and just position this Commission as looking at everything related to data and the criminal justice system and looking for policy analysis and recommendations. We're very excited about that opportunity, we'll keep you updated on what comes next and what we're able to get off the ground and those of you that are the heads and major participants in these criminal justice agencies will be hearing from us soon to review this letter and see what we need to do to get everyone on board to submit this and submit that request for technical assistance.

The last thing I wanted to update everybody about was the sentencing credit guide. At our February meeting we presented a sentencing credit guide for specifically AB 241, which was the bill that provided certain credits in response to programming opportunities that were not being able to use during the pandemic at the Department of Corrections. We have an updated version like this or a new version like this it's including your materials where we have addressed sentencing in general, so not just specific to those AB 241 credits. I wanted to say before I go through it a little bit is that we have been strongly, we've been regularly collaborating with the Department of Corrections on this and also the Attorney General's office as they have to respond to a lot of the legal challenges when it comes to credits and concerns. I wanted to emphasize that this document is a product of all of those collaborations and the work and input we've got everybody about what is the best way to inform everybody and become better at understanding of how credits are projected and credited and adjusted throughout the sentence of someone who's serving time in the Department of Corrections. We will continue to collaborate with the Department of Corrections. Our intended next steps with this as we already actually discussed with them would be to start getting this out to the inmates and caseworkers and start trying to get everyone on track and talking about credits in a similar way so that we can hopefully limit the confusion that has been borne out of, just what we do have as a very, it's a complicated system and also the way we need to project cannot always be clear to everybody but I think this can bring us the transparency that a lot of people have been concerned about having and it's there it's just being able to manage and understand all the pieces.

We are also going to make this available on our website so that anyone can access it. If we were to get calls or letters from inmates, we'd be able to direct them to this, be able to direct family members to this. Our partners at the Attorney General's office have already expressed their intention to use this for training materials and upcoming trainings that they're doing with judges and other attorneys. I also intend to present this at a future Interim Judiciary meeting, so it'll better inform them about any policies that they're looking at. One of the things that we have talked about with our partners and the stakeholders is when it comes to making certain reforms, in the past, credits have been looked to for this and based on this, and our analysis of credits we would recommend that from our department that, that not be the focus when we're looking at certain reforms. If you are going to look at reforms, credits might not get you the outcome that you want, but maybe understanding this can help people navigate when they do want to reform any of these provisions, how to navigate those reforms and get the intended outcome.

One of the things you can do is, we've created our model offender, who we've named Barney Rubble. We've limited what his sentence is, and the category is, it's a very limited scope that we have on this just to help individuals navigate how the credits are applied and how they are projected and what dates they can affect. A couple of things I wanted to point out which we discussed at the February meeting was it's important I think when an individual trying to understand how the credits have either affected or could affect their sentence, is to focus on the days owed. Focusing on that parole expiration date or your parole eligibility date does not, that's not the best way to navigate your way through the credits and that's where they can be a misunderstanding or where it can feel less transparent. If you focus on the days owed, you can see especially on page three you can see as credits get adjusted, you can see where we ghosted out those credits to see here's credits you could have earned but were not able to be earned and if you were to walk through that calculation you can see how the credits come off the days owed and the reason you don't see it reflected in the date is because it affects future credits that you were able to earn. There ends up being this, you served fewer days owed based on the credits you earned but you weren't able to earn anymore credits because you got out sooner, based on this scenario. That's one of the things we wanted to emphasize when it comes to navigating these and that the projection system can be navigated and understood based on not just focusing on that. These tables too also represent a report that an inmate can request from their caseworker that shows them what their credits are projected. One of our thoughts is that if there is someone who arrives at DOC, gets their initial report and gets one of these forms, they'll be able to understand, here's what was projected, here's how things could be affected in the future. Then if there happens to be credits adjusted over time, they'll be able to see how they can be adjusted and the chart can help walkthrough how to understand what happened to your credits and how they've been applied or how your projections changed.

That concludes my report I will now turn the time back over to the Chair.

Justice Cadish: Thank you for that report. Are there questions for the Director or her staff? First any members? Ms. Welborn.

Ms. Welborn: Thank you, Chair. Thank you, Director Gonzalez for your presentation. I had a question about the resolution to move forward with the Justice Counts initiative, is the resolution necessary or is it something that we can move forward through a request letter through this Commission or the Governor's office or something like that?

Director Gonzalez: Thank you for that question. Director Gonzalez, for the record. There are different avenues for identifying Nevada as a Justice Counts State. The toolkit that's provided, does provide different opportunities. One of those is working with the Governor's office and putting an executive order. My recommendation would be, we could pursue that as well, I would recommend that, we did not put this on this agenda for this meeting and so we would need to agendaize that for a future meeting to see if this Commission wanted to approve that. However, because we are already statutorily established, I don't know if that is the strongest way for us to identify, but we could try multiple avenues. There have been a few, there's the resolution we could propose, we could pursue the executive order. Requesting technical

assistance actually does put us on that track for becoming a Justice Counts state. My idea with doing the resolution is it would be something we could also tie to our statutory duties and make the Commission the leader on the Justice Counts. There's a lot of choices. The Commission could discuss which avenue you'd like to pursue as far as that's concerned, if you want to do a resolution, if we want to reach out to the Governor's office and do an executive order. Parallel to that we can still pursue this other letter from all the criminal justice agencies requesting technical assistance. I like it, it kind of gives us all the different approaches, so we could pursue whatever the Commission is interested in.

Ms. Welborn: Follow-up please, Madam Chair.

Justice Cadish: Go ahead.

Ms. Welborn: Holly Welborn, ACLU of Nevada. The reason I ask that question is, I'm very excited about this opportunity and wouldn't want to delay, so from my perspective, the ability to move forward as quickly as we can, even just with that technical assistance piece would be my preference.

Director Gonzalez: Victoria Gonzalez, for the record. I would say, we could absolutely move forward with the letter. Based on the feedback we get here; I'd like to hear if there were any concerns about this. If the feedback here is generally positive, then we can move forward with the Chair actually on that and as long as the Commission, like we update the Commission because my intent would be to move forward with the Chair to submit that letter for technical assistance as soon as possible because the Chair it's related to technical assistance is getting grant assistance and there is a statutory provision in our statutes that authorizes the Chair to pursue grants on behalf of the Commission. That was my thinking in being able to move forward with that as long as we're addressing any questions or concerns that the Commission has and then we could do a more formal approval of something if this Commission would like at a future meeting.

Justice Cadish: Chair Cadish, you don't think we need a vote?

Director Gonzalez: We could, but we can also move forward.

Justice Cadish: Ms. Welborn, were you done? Okay, and is there anyone else here in Carson City on the Commission who has questions for the Director? Is there anyone on the Commission in Las Vegas who has questions for the Director based on her report? Okay, it appears we don't need a motion at this time then. Okay, so hearing no more questions, we'll now close this agenda item.

5. Presentation and Possible Action on Recommendations for Bill Draft Request Submitted by the Nevada Department of Sentencing Policy and the Nevada Sentencing Commission

Justice Cadish: We're now opening agenda item five presentation from Nevada State Police Records Communications and Compliance Division. We are working on finalizing our BDR and at our February meeting the Director presented some ideas and recommendations on what we could submit. One of those recommendations included adding a representative from the Central Repository as a member of the Commission. Some of our fellow members requested to learn more about the Central Repository to better inform this Commission of their duties and activities before deciding whether to include this change in our BDR. The Nevada State Police Records Communications and Compliance Division operates our Central Repository and today we have representatives of the Division to educate us about what they do.

I will now invite them up to the table, I see they've already taken that opportunity, turn the time over to Erica Souza-Llamas to make her presentation and introduce her staff if she's brought anyone with her, I see she has, so, please proceed.

Erica Souza-Llamas: Good morning, Commission members. My name is Erica Souza-Llamas and I'm the new Division Administrator for the Department of Public Safety Records Communications and Compliance Division.

I have with me today, Nicole Lubich. Nicole is our Special Services Manager that oversees our SAFE Kit Program, Uniform Crime Reporting and NCJIS compliance unit. The Division's mission statement is simple, it's to provide complete, timely, accurate, criminal justice information while balancing the need for public safety and individuals' rights to privacy. The Division was created in NRS 480.130 and 480.140, and is comprised of two bureaus. We have the Communications Bureau and the Records Bureau. The Division also has the responsibility of overseeing the department's IT security requirements and a handful of disparate duties as required by federal and state policy.

In 2013, the Division acquired the management of the Communications Bureau. The Communications Bureau is the first responder unit within the Department of Public Safety that is critical to the agency's statewide law enforcement mission. We have two dispatch centers; one in Carson City and one in Las Vegas. Those centers service the department's sworn activities. The Communications Bureau also provides dispatch services to multiple allied agencies. Services are provided 24 hours per day 365 days per year. Our communications personnel receive approximately 584,000 emergency calls every year with an overall volume of approximately 859,000 calls annually.

The Records Bureau was established in the 1985 legislative session. The Central Repository for Nevada Records of Criminal History is administered by the Department of Public Safety Records Communications and Compliance Division, under the authority and provisions of NRS's 480.140, 179A, 179B, 179C, and 179D. The Criminal History Repository administers the Nevada Criminal Justice Information System, otherwise known as NCJIC and is the State's clearinghouse for criminal history record information, crime statistics and information and activities that support a wide variety of public safety interests. It is a member of the Western Identification Network, which is a consortium of eight western states that share a high-speed automated biometric identification system and serves as the Federal Bureau of Investigation's Criminal Justice Information Services Division's CJIS Systems Agency for the state of Nevada. It is a member of NLETS International Justice and Public Safety Information Sharing Network and SEARCH, which is the National Consortium for Justice Information and Statistics. The repository also participates in the FBI's interstate identification index, Uniform Crime Reporting Program and the National Crime Prevention and Privacy Compact for the sharing of criminal history records for non-criminal justice purposes. The Repository is further designated as a chief law enforcement official for administering the federal Brady Handgun Violence Prevention Act of 1993, to conduct all national instant criminal background checks for firearm transfers through federally licensed firearms dealers throughout the state.

The Division services and subprograms support criminal history record and forensic identification services, fingerprint-based background checks for employment and occupational licensing, The Brady Point of Contact Firearms Program, NCJIS compliance unit, the Uniform Crime Reporting Program, the Repository for information concerning orders for protection, the sex offender registry, and the civil name check program. Most recently, with the passage of AB 97 from the 2017 legislative session, the division has been designated by the Nevada Attorney General, as the administrator of tracking the Sexual Assault Forensic Evidence or SAFE Kit Program. The Central Repository administers the civil name check program, which is the service provided to employers, volunteer organizations, and employment screening services, to conduct name-based, state only, criminal history background checks on employees, prospective employees, volunteers, and prospective volunteers. In calendar year 2021, the CNC program received 71,291 name-based background checks. The Central Repository also administers the Uniform Crime Reporting Program, which collects statewide criminal data from law enforcement agencies throughout the State and publishes the crime data on the division's website. The data is also submitted to the FBI for inclusion in their publication. Along with the federal data, the UCR program also collects statutorily mandated data on abuse against older persons, orders for protection, hate crimes, and data concerning suspected acts of domestic violence. Use of force data collection was added by way of Senate Bill 212, in the 2021 legislative session. It should be noted that this data is not currently being collected as the division's working to secure funding to implement a module to capture use of force data in the Repository. In 2021, The Central Repository transitioned from summary crime data reporting to incident-based reporting, referred to as the National

Incident-Based Reporting or NIBRS. NIBRS allows for the reporting of all offenses that may have occurred during an incident, whereas the previous summary reporting structure only allowed for the most serious offenses to be reported. The Central Repository also houses the State sex-offender registry, which was created in 1997, in accordance with the federal Megan's Law and is a statewide registry of sex offenders and offenders convicted of a crime against a child. The Central Repository also maintains a community notification website to provide the public with access to certain information contained in the statewide registry in accordance with State statute. In the 2007, Nevada legislative session, Assembly Bill 579, was passed as Nevada's version of the federal Adam Walsh Child Protection and Safety Act of 2006. Due to ongoing litigation The Central Repository didn't implement AB 579, until October of 2018, when a long-standing lift was stayed. As a note, the registry currently has 7,377 active offenders and 23,859 inactive offenders.

The Brady Point of Contact Firearms Program conducts name-based instant criminal background checks on potential firearms transferees pursuant to the federal Brady Act of 1994. There's a few legal exemptions to the background checks which include a CCW exemption, where an individual holds a valid CCW and an active law enforcement officer purchasing a duty weapon. The Brady Point of Contact Firearms Program conducted a total of over 139,000 checks in calendar year 2021. That number includes just over 6,200 private party background checks. The Sexual Assault Forensic Evidence or SAFE Kit Program, establishes a procedure for accessing, tracking, and reporting the status of a sexual assault forensic evidence kit. The web-based system allows health care providers to perform forensic medical examinations, law enforcement agencies, prosecutors, and forensic laboratories to track the status and location of a sexual assault forensic evidence kit. It allows a survivor to anonymously track and receive updates on the status of their kit.

The Repository for Information Concerning Orders for Protection as governed by NRS 179A.350 and must contain a complete and systemic record of all temporary and extended orders for protection for domestic violence, stalking, aggravated stalking, harassment, and sexual assault issued or registered in the state of Nevada. The information in the protection order program must be accessible by computer at all times to agencies of criminal justice.

The Central Repository is mandated to provide an electronic means to access the Division's public website statistical data concerning all temporary and extended orders for protection issued during the previous calendar year.

With so many programs highly dependent on technology, The Business Process Management office coordinates all projects related to upgrades, enhancements, or replacements of The Repository's many information technology systems and documents all business process flows, project requirements and other such business needs for communication to the Department of Administration's Enterprise IT Services Division or to outside vendors. The Business Process Management Office is critical to ensuring that IT systems operate according to the business requirements within budget and within the projected timeline.

The Repository is also responsible for receiving and maintaining all fingerprints submitted for criminal arrests as well as civil purposes such as employment and licensing. A team of fingerprint examiners ensures proper identification and creation of or additions to, criminal records. A criminal records support team ensures proper data entry of the demographics in crime data and maintains all of the Nevada criminal records. A civil support team ensures timely processing of the fingerprint submissions for civil purposes such as adoptions, permits, licensing and employment to include making employment determinations on behalf of other agencies.

The Records Bureau's primary responsibility is to provide Nevada's criminal justice community with the information necessary for them to ensure public safety. The Records Bureau is essentially the centralized file cabinet for records of arrests and dispositions for all Nevada criminal justice agencies. The Division received 95,657 criminal fingerprint submissions in calendar year 2021 as well as 78,000 dispositions that were appended to the criminal history records. Civil applicants fingerprint base background checks are

conducted pursuant to various statutes such as CCW's, CCW permits, volunteers, adoptions, employment, or occupational licensing purposes for positions of trust. The volume of these background checks increase every legislative session. In calendar year 2021 the Division received and processed just under 249,000 civil fingerprints.

The Nevada Offense Code Program provides the standardized coding methodology to share charge information between law enforcement, prosecutors, courts, and The Repository. NRS doesn't provide the specificity needed when looking at enhancements. The NOC Program maintains approximately just over 12,000 NOC's which increases every legislative session.

As the FBI's CJIS systems agency for the State of Nevada, the DPS Records Communication and Compliance Division, NCJIS Compliance Unit, or NCU has the responsibility to ensure authorized access to the State and FBI criminal justice information systems of and by agencies throughout the State of Nevada. NCU is responsible for NCJIS, FBI NCIC and INLET's training and auditing. NCU vets request for access, trains users on how to properly access the systems and the information contained within the systems and audits users to ensure the compliance with state and federal laws, regulations, and policies.

With many of the Division's criminal justice information systems, they are currently running on outdated technology. As such, the Division has been working to modernize the current environment to ensure that the critical data contained within and shared with our stakeholders remain available to our criminal justice partners. This is critical to officer and public safety as our systems are accessed by statewide and nationwide criminal justice agencies for criminal justice purposes such as investigations and intelligence, prosecution, and sentencing, as well as civil purposes for firearms transfers, employment, licensing, and volunteers.

The NCJIS modernization will replace the core criminal justice systems with modernized and supported technology. The replacement efforts include the State warrant file, computerized criminal history system, the State's message switch, and the Division's civil applications for the Brady Point of Contact, civil fingerprint, and the civil name check programs. The replacement systems will bring much needed automation and efficiency which will not only benefit the State but our criminal justice partners and our over 2,000 civil applicant account holders.

Implementation is expected to be around December of 2023, possibly into the first quarter of 2024. With that I'm done with my presentation and will open it up to any questions.

Justice Cadish: Thank you very much for that presentation. Do we have any questions for our presenter here in Carson?

Chuck Callaway: Chair?

Justice Cadish: Yes, go ahead Mr. Callaway.

Mr. Callaway: Thank you Chair. First please let the record reflect that Assemblyman Roberts and Assemblyman Orentlicher are present now.

Justice Cadish: Thank you

Mr. Callaway: I really don't have a question just more of a comment for Erica. I know it's sometimes difficult in this period after COVID to get accessibility to various entities and over the last few months in regards to reciprocity for CCW in regards to childcare work cards and several other issues, you have been very accessible and very helpful to myself and our agency and so I just wanted to publicly thank you for that.

Justice Cadish: Okay, thank you. Are there any other comments or questions with regard to, Ms. Welborn?

Ms. Welborn: Thank you, Justice Cadish, and thank you for your presentation today I had a question about SAFE Kits. In I believe it was San Francisco Bay area, they discovered that some of that DNA evidence was being used to actually prosecute some victims of crime who had used a SAFE Kit. Do you know if we have

protections in your policies and procedures to insulate against that using that for law enforcement purposes? Thank you.

Ms. Souza-Llamas: I'm not sure what the policies state. My division is responsible for tracking the data and making it available to the victims and in the criminal justice community. I can't speak on what the labs may do, what they access the samples for, so I apologize. I can reach out to the labs if you like and find out.

Ms. Welborn: I would very much appreciate that, thank you.

Justice Cadish: Thank you, so we look for a follow up on that. Are there any other questions here in Carson City? Not seeing any, any other questions in Las Vegas regarding this presentation? Don't see any, no. Okay, so with no more questions I will close this agenda item thanks for that presentation.

6. Discussion and Possible Action on Projected Amount of Costs Avoided Report

Justice Elissa Cadish: We're now opening agenda Item number six, presentation and possible action on recommendations for Bill Draft Requests submitted by Nevada Department of Sentencing Policy and the Nevada Sentencing Commission. As was mentioned at our February meeting, Director Gonzalez presented recommendations to include in our BDR. The Commission requested additional information and research on these recommendations. Staff has met with the agencies, stakeholders, and members of this Commission to gather additional information and get more feedback on some of these recommendations. They have revised the recommendations and put together some proposed language to help us decide what we want to move forward in our BDR. The deadline for submitting the BDR is coming up. After the Director's presentation, we will discuss the recommendations, make revisions where necessary, and vote on those to move forward. I will now turn the time over to the Director. Go ahead.

Director Gonzalez: Thank you, Chair. As this Commission may recall, there are two sets of recommendations that we had been working on. Those related to AB 236, which was enacted in 2019, and then recommendations related to this Sentencing Commission and to our Department. My intent is to present all of the recommendations at once and then take questions at the end, but I'll defer to the Chair and to the Commission if you want to interject those as I go along or save them all for when I'm done. The AB 236 recommendations have been developed with our meetings and partnerships with other agencies and we've been reaching out to other stakeholders for input as well. The intent of these recommendations is to help enhance the implementation of the intended policies for AB 236.

The first of these recommendations is related to temporary revocations. AB 236 defined technical violations and require the Division of Parole and Probation to develop and use a system of graduated sanctions to respond to technical violations for parolees and probationers. Rather than seek a full revocation for technical violations, after using graduated sanctions, the Parole and Probation can use a temporary revocation. This chart illustrates how these temporary revocations work. We wanted to show the process that an individual may go to if they face multiple technical violations and how these are set up. You can see first; Parole and Probation uses the graduated sanctions in response to a technical violation. At a certain point, Parole and Probation will seek a first temporary revocation for technical violations. A parolee or probationer could serve up to 30 days, pursuant to the statute for a first temporary revocation and then what would happen is after serving that temporary revocation, the individual would be released and then P&P, if necessary, would continue to use the system of graduated sanctions to respond to technical violations and if necessary, pursue another temporary revocation. You can see here the second temporary revocation, the statute provides up to 90 days for that temporary revocation and again going through the process of third temporary revocation would be up to 180 days. If we get to a fourth, using the graduated sanctions in response to a technical violation that could result in the fourth or subsequent revocation which is a full revocation.

At our last meeting we presented a similar chart to this one, on this slide right here I just have laid out just what the statute provides in terms of those temporary revocations. This does apply to both probation and

parole and the intent would be to rather than fully revoke somebody, would be to seek a temporary revocation in response to these technical violations.

On slide six, you can see the process of how a parolee, specifically a parolee, is processed through the temporary revocation procedure. We presented a similar chart to this one at our last meeting. One of the requests that we received at our last meeting was putting in the time that is required for each of these steps. I'll walk through this again. Again, this is specific to parolees. If there was an alleged technical violation for a parolee, the parole violator is arrested and placed in custody in a jail. Then what happens is the Division of Parole and Probation, holds a probable cause inquiry within 15 days of arrest and then depending on the outcome of that probable cause inquiry, then P&P would submit a violation report and a request for a retake warrant to the Parole Board. The Parole Board would review the report and then sign the retake warrant if they've made a finding and then or not a finding but then sign the retake warrant to send the parolee back to a hearing. The Parole Board sends a signed warrant back to Parole and Probation; that warrant is what then moves the parolee from a jail to an NDOC facility which is statutorily required when a parole violator is facing a hearing. The jail then transfers the parole violator to a DOC facility. DOC must fully process that parole violator at intake, then what happens is, the parole violator is housed at a DOC facility until their revocation hearing. The revocation hearing is required within 60 days, it can happen in less amount of time than that, but the statutory requirement is it has to happen within 60 days. Then if a temporary revocation is found at the parole hearing, then the time that they would serve for that temporary revocation is served in a DOC facility. DOC after that time is up DOC then prepares that parole violator for release and then they have to fully process whatever is necessary in order to release somebody from a DOC facility.

The other thing you can see we've added here is, we've been able to collect specific data. The data we have here is specific to those individuals who were ordered a first temporary revocation from July 1, 2020, until December 31, of 2021, and that's where that our average length of stay came from.

One of the things we're analyzing is how much time a parolee specifically is spending sitting waiting their outcome. We're thinking about that first temporary revocation and if they're found to have a temporary revocation and they serve up to 30 days, you can see here combined by serving time in a jail, specifically CCDC we appreciate our meeting we had with them in the data we received, the time it takes to have that probable cause inquiry, then the time it takes then to transfer them to another facility on average could be about 28.8 days and then they get moved to DOC, after they're at DOC, the average time it takes to have their hearing date is 45 days and then by the time they finished serving their time and or need to be processed for release that's another 69 days. We're looking on average for those first temporary revocations they were serving 97.8 days combined the time in jail and their time in DOC.

We have tried to reach out to Washoe as well, and still waiting to get some input for them, the data collection is different than what they do at the CCDC. We are still working on getting some input for that, because that was something this Commission specifically requested on what would be the impact on the recommendation that we're going to talk about.

Here's our recommendation, based on the data collected, meetings with the agencies, meetings with getting input from the stakeholders is, the recommendation here would be to eliminate that first temporary revocation of 30 days. This recommendation is specific for parolees because that's the data we have.

You'll see on the forthcoming slides we do recommend this change be made to the probation section as well for consistency of supervision and how it's applied. The policies would be advanced that were intended from AB 236, but we are still working on collecting that data. The data that we need to collect for probationers is little bit different because we'd have to go to each court and then the jail to figure out how everything's getting processed. But this recommendation would eliminate that first temporary revocation of 30 days.

In its place would be what I'm kind of referring to as an intermediate sanction. It's not going to that first temporary revocation, but it's also something a little more elevated than what's in the graduated sanctions

right now. That would be to authorize the division of Parole & Probation to impose confinement in a jail, or order electronic monitoring as part of the graduated sanctions in response to a technical violation.

In our previous presentation I refer to these as flash incarcerations, but since we added this other possibility of imposing electronic monitoring, using the term flash incarceration didn't capture the whole intent and so that's why I'm not using this term now, rather than trying to define that in very limited way that won't capture everything we're trying to do, but we are referring to those flash incarcerations that we talked about previously.

You can see that the proposed impact here would advance these policies, I think it would improve the efficiency and effectiveness of community supervision as it's empowering Parole & Probation with some additional tools when it comes to responding to these technical violations and not just limiting it to those temporary revocations. Then what's really important is to focus on those swift, certain, proportional sanctions that was a big foundation of AB 236 and providing those opportunities and making sure that it's specific to those individuals. Having an opportunity or a tool like this, can help a Division of Parole & Probation figure out what's best for the person that they are supervising and what might lead them to success. This would reduce returns to prison for technical violations.

We would also be focusing our prison resources on the serious and violent offenders and not those coming back from supervision. You can see how much time those individuals on average were spending at DOC and that is using those resources to house those individuals while they're awaiting the outcome of their hearing.

It's possible that this recommendation would also reduce that average length of stay in jail specifically for that data we collected from CCDC; it would not increase that as I'll show in the language that we have proposed here. It wouldn't ultimately increase that. Our assessment is from that perspective, it wouldn't be increased costs of the jails, it might just be the same outcome they have right now, but they might see more opportunities for bed space. I'll also turn to this Commission to getting input on that, about what that might actually result in. But based on the data we have here, it would be less time that these individuals are sitting in jail. It would be consistent I think when we're talking about changing the similar provision for probation, they would be spending less time. Even for the probationers for those that were spending their full 30 days or waiting for their hearing, this recommendation would be less time as you'll see in the proposed language.

Then as I said before, be reducing those returns to DOC which then would take some pressure off of the resources there and making sure that we're focusing those prison resources on those violent offenders, which serious and violent offenders was the foundation of the policies of AB 236. When we look at what the intended policies were of AB 236, and what the outcomes are of this policy we can just see there's opportunities to refine this so that we actually get the outcome that we intended when enacting AB 236.

What we did not provide last time was proposed language. What we did here was put this together so it might help to better visualize and understand what this would look like in statute. Our intent would be whatever is approved or added to here today, we would keep refining that language as we work up to the deadline of June 1st, to get this language out. I can tell you that a lot of this has come from our collaboration with the agencies and I really appreciate that as we workshop the language and get feedback. We can see you might have an intent for something, and we start putting it into the statute and realize, oh wait a minute, maybe this isn't quite accomplishing what we intend to, so that's one of the things I'm looking for from this Commission as well.

Now that we've got some really solid, I think, intent of the policy and what this language would look like, I'm very curious to hear what the Commission thinks about seeing this language all come together.

You can see again, we'd be completely removing that 30 days. Now the 90 days would become the first temporary revocation, the second would become 180, and a third is when the individual would be fully

revoked for technical violations. You can see my note here, if the recommendation were to revise the probation section similar to the parolee section this is what it would look like that statute is very similar.

Then how to incorporate what we're proposing for those jail sanctions and the electronic monitoring. What we would put is something in the graduated sanctions that this is the statute that mandates that P&P has to adopt those graduated sanctions and how to use them. P&P would need to with these additional tools in their toolbox for supervising when it comes to technical violations, include guidance on how to use these and that's what this slide shows is just making sure that that guidance is included in the matrix that's used when supervising. It includes both that confinement in jail and then the use of the electronic monitoring.

You can see here that again to the graduated sanctions, the limitations that would be on the jail or detention. The intent here would be that jail time that's ordered in response to a technical violation would be no more than 10 days in a jail. Then, overtime, the days imposed, they could impose multiple incidents of, basically a jail sanction that could not in the aggregate be more than 30 days. That's where I can tell you that the jails would not, at least according to the CCDC data, would not experience more bed time with this because it ultimately overtime would just be the 30 days, but they would be in smaller sections leading up to that; it wouldn't be all in one time. Again, the idea would be that there's these opportunities for P&P to impose a jail sanction, it could be less than 10 days, it could be two days, three days, that would be imposed for that.

Then this slide shows an example of the section we would use to then expand some of the authority that P&P has right now. I'll say when it comes to imposing electronic monitoring, this section lays out the scope of electronic monitoring for other situations for P&P. In our ongoing discussions I think it might be best actually to take some of this language and create a new section in the technical violation clump and the temporary revocation clumps, that way this is very clear it only applies to these situations and the scope of that. This language here is really just to show you what it would look like; I do think ultimately if this recommendation were approved, we would put it into a new section within that supervision clump to make sure it's just within that scope.

With the residential confinement here, the idea is that the confinement would not go beyond 60 days. It's a little bit different sanction than being put in jail that's why it's not the 10 or the 30. In our discussions having that flexibility might be more appropriate for the type of sanction it is, there's little more freedom that comes with having this type of sanction and more opportunity for the person being supervised.

Then you can see my note here, that there's another section of probation that has a similar provisions for guiding electronic monitoring. We would again, for the probation section and clumps, create a new section that would look very similar to this and not try and just horseshoe this into an existing authority but create that separate authority that's consistent with the clump for technical violations and temporary revocations. So that is the Temporary Revocation recommendations.

Justice Cadish: Director Gonzalez, I'm sorry.

Director Gonzalez: Please.

Justice Cadish: Before we move on to another subject, I want to understand, on the one hand changing the other part of the statute to make the first technical violation subject to up to 90 days. On its face that's increasing the penalties for the technical violations. It sounds like the intention was to have what would have been the first violation be addressed in just a different way by having just some even shorter confinement in a jail facility and/or house arrest if I'm understanding correctly, is that right?

Director Gonzalez: Yes, I want to make sure I understand your question. So, specifically with the parolees, if we were to shorten the sanction, they still have to go through a DOC facility. The concern with the parolees, is that no matter what time is imposed for a temporary revocation, they have to be processed through a DOC facility and they have to sit there for a hearing and there are statutory limitations and I think

for the sake of like being able to process these individuals and get their hearings through, that they have to sit.

I don't know if that's what you're getting at, if we were just to change less than 30 days. Is that where you're asking? If it was possible to change that that first to less than 30 days?

Justice Cadish: I see that what's actually happened is in spite of saying the first one is less than 30 days the whole process is taking more than 90 days because of all the steps involved. I get that concern and the need to address it, but concerned that by changing the statutes, so now the first violation comes with up to 90 days that if that ends up having the effect of imposing harsher penalties based on technical violations sooner, if that makes sense?

Director Gonzalez: Yes, so now if I understand, the idea of having, I've framed it as an intermediate sanction. The intent here would be, by having that jail time as a sanction before the temporary revocation, that's for most individuals, that would be the vision.

One of the things I'm thinking is by having, in other states they call them dips, where there's someone being on supervision a quick dip in a jail facility is, just kind of like, here's a time out, we just want to check in. When I think about the larger intent of the policy, one of the concerns is that by having 30 days be the first one without anything else in between, the individual on supervision might not be set up for success in the way intended, because 30 days can be very disruptive as opposed to a two day you know up to 10 days. I think it's more possible for individuals to still maintain their job, to still maintain their housing. The problem with going right to 30 days, we either have the graduated sanctions and go right to 30 days, that's very disruptive, I think for supervision. Then because of what we see for the parolees specifically, what's happening because of the procedure we already have in place in statute, that's even more disruptive. I can see where it might look like we're just jumping right to the 90 days for the parolees, but I'll say the data shows they're already doing that.

Justice Cadish: Could there be a requirement that before the temporary revocation under statute would come, that there needs to have been some type of an intermediate step like we're talking about, so that when we're looking at the up to 90 days, we know some lesser issue which is less disruptive, as you've described, be attempted?

Director Gonzalez: If I'm hearing I think the comment, then what you might be proposing is maybe something that's put in the proposed language that requires this intermediate sanction happened before the temporary revocation?

Justice Cadish: It's a suggestion. If we're taking out what was that shorter first requirement which I understand why you're going that way, that maybe--just a thought. I'm not a voting member of the Commission.

Director Gonzalez: The input as a stakeholder of the criminal justice system, absolutely. I would say either we can do it now or when we're done. I would appreciate input from the supervision perspective, if they want, from Parole and Probation. That would be my question for Parole and Probation, but I don't want to bring them in unless they really want to right now. I know we talked about different responses to that, and I know it's something we need to talk about. I'm not quite sure how to approach that, I would absolutely want to invite this Commission to discuss that further and see if that's something that you would like to do.

Justice Cadish: Thank you. Are there other comments on this specific portion before we go on? Dr. Lanterman.

Dr. Jennifer Lanterman: Thank you. The follow-up on the Chair's question, it seems me that what we're essentially doing, is historically what we have done, is we've equated instances of noncompliance on supervision with actions that would result in a process towards like a technical violation as temporary revocation. What it sounds like, there's a realignment so you might have an initial instance of

noncompliance that's handled in an intermediate sanction way that instead of going to that attempt or the process for first temporary revocation in that 30 days, instead that first instance of noncompliance is going to be handled with short periods of jail time, with electronic monitoring and so that's why the rest of the proposed language has been realigned so it looks like after the third instance of noncompliance, you might pursue that full revocation.

I agree that it might be useful to explore how we document that, because if you don't, I think there's potential for that to be interpreted as, oh, this first instance of noncompliance now triggers the pursuit for temporary revocation and so it's possible without that being explored in the language here, that this revised language could have the opposite intent, like that would produce the opposite outcome. That would be my first comment.

The second, is there going to be request for additional funding for programming and treatment to support people on community supervision who are having these instances of noncompliance? Because a lot of that, not universally, but a lot of that noncompliance is going to be around noncompliance with curfew, issues with drug testing and they are maybe all sort of related to behavioral health issues. It is useful to avoid seeking that initial temporary revocation and sending people back to Department of Corrections custody, however, if the behavioral health issue persists and there's not treatment intervene there then it's likely that those instances of noncompliance will continue; it's just that we're responding to them differently. If the goal is to reduce the actual frequency of noncompliance, then we need additional funding to provide programming and treatment to those individuals or we're simply just sort of shifting when people are going back to Department of Corrections but not reducing the number of people who are going back to Department of Corrections' custody.

Director Gonzalez: I will take your first question about the opposite outcome. I think we see this with AB 236 and what we're proposing here, there are these unintended outcomes, and so how can we get the outcome we want? I agree, when you start trying to do something else, you might get a different outcome that you didn't anticipate. I'll address that and then your second question about the funding.

If you look on slide 10, where we reference the existing language for graduated sanctions. There is statutory guidance here for Parole and Probation for how they developed their matrix and for responding to technical violations. The way this statute is written here and the way that I understand that they are being supervised is it's not just one response because the way the matrix is set up; that was the intent with this, is that there's multiple responses and different types of responses that can be elevated and escalated depending on the type and the frequency of the violations. That's why I think it's really important that this recommendation is built into the existing system of graduated sanctions because what this would play out as whatever is happening right now in supervision and responding to these technical violations, this is one more tool. They already have multiple ways that they're responding to that, and so to me the oversight would be if they're not using the matrix with these, that's going to be the problem and that to me is how we're responding to that.

To your point about documenting that we're working with, I know that the division is still trying to, we're still working on data collection issues. We are in the process of talking with the Division and actually to figure how can we start collecting some of this information so we can track that. I will say the statute already has that built in and by putting that here and ensures us of that. That we have a statute to go back to to determine is this being the way it was supposed to, is it built into the matrix? You can let me know if that answers your question.

To your question about funding, I absolutely agree. You saw me nodding here and I'm just like absolutely. I'm going to address that in our cost avoided report. What I could do is more intentionally connect these because I agree especially when it comes to supervision. Even when they're going back to DOC, are they having the programming and support they need? I agree, if we just focus on this time limitation, we're still not doing them a service. We're still not offering those swift, certain and proportional sanctions if it's just, we just change the amount of time, if we're not offering them other opportunities and figuring out what is driving

the challenges that someone may be facing. I agree that funding should absolutely part of that, and what I could do is tie that to what we're going to present in the cost avoided report.

Dr. Lanterman: Thank you.

Justice Cadish: Ms. Cafferata.

Director Elisa Cafferata: Thank you. Not so much specific guidance on your proposal thus far but just some observations about crafting proposed legislation. My experience has been that you can draft the most beautiful proposed statutory amendments and the LCB will still review and most likely edit because they have a sort of different approach. My recommendation would be at the end of the day to make sure we are very clear on the intention that we are trying to accomplish. They will help us draft it the appropriate way but I think the comments here are the intention is to be more productive in the way that we approach this work. The matrix piece especially is very helpful but it's not our intention to start at a 90-day revocation, it's our intention to provide some other diversions and possibly encourage positive behavior. We want to make that intention very clear and as much as we can document that in the Legislative history, I think will be more successful.

And then about the funding, I would just share with this Committee that the Governor has been very clear that our budgets need to be flat and so I would discourage us tying funding to this bill. I think we need to accomplish the policy goals and make the case for that and not jeopardize the policy bill and then the budgeting I think is a separate thing. I do think we'll be able to make a case for that but it's very clear that everything that has a funding component to it will be under extreme scrutiny so I would prefer to set ourselves up to have as many wins as we possibly can, so those are my thoughts, thank you.

Justice Cadish: Thank you. Are there any other comments for the Director on the portion of the presentation so far? Mr. Arrascada.

John Arrascada: Thank you. I do have a question on the 10 day, I think you called them dips. Who determines the length of time on the dip? It can be anywhere from one day up to 10 days in theory a person could have 30 dips before they face a 90-day technical violation or they could have three 10-day dips, so is it a court determination of how long that period of time is not to exceed 10 days or is that an internal P&P decision?

Director Gonzalez: It would be a decision of P&P within the way that graduated sanctions are designed in the matrix. The matrix would govern the how those are used. In my conversations with them, the intent would be not to have multiple dips like that. The intent would be having this other tool in their toolbox to better supervise the individual and they experience that right now with certain sanctions that they have within the matrix about how often do use something or when to use a certain sanction and so this would be another sanction. It's not provided for in statute, it's something we could discuss absolutely about if there's a certain type of limit we want to do. One of the challenges in trying to design something like this is how much do we guide them and govern them and ultimately trust them with how they're going to use the supervision. The way the matrix is designed I think it's possible that there might be enough in there to govern that but it's something we could contemplate in putting in. It's something I went back and forth on about how to limit that time other than just the 30 days. It is technically possible based on how it's drafted right now, but that would not be the intent.

Mr. Arrascada: I just had a comment. I'm not opposed to 30 dips because a person on probation may be employed and one day in custody, or two days in custody can get a message across as opposed to 10 days, loss of job, and then there's the downward spiral to 90 days and towards revocation. My question back is, you're mentioning this matrix, is the matrix then the absolutisms as who determines all the time, that P&P just goes to their matrix and determines, oh you've got to do an eight-day dip now you've got to do 10. How does it work?

Director Gonzalez: That's a good question, based on what I've seen of the way the matrix is designed, I think there would be flexibility built in there. I defer to P&P if they want to comment on this about what it would look like, but I think that it would be flexible to a point based on the type of sanction we're talking about. The way that I've seen the matrix work is what is the severity of the situation that they're looking at, how many times has it been. I think it would look that we're depending on how many times are we facing the violation, what type of violation are we talking about or what type of conditions are we talking about the person's not complying with. When they design that, my intent would be for them to take the 10 days per instance or the 10 days for one instance and then that 30 days aggregate and start playing with that to see what it would look like based on what they had built in right now.

Mr. Arrascada: Following what Ms. Cafferata said, is that I think we need to be very clear what our intent is. If the intent on the dips is to provide punitive yet opportunity, we need to make that clear. If the intent is just to give the Division three times to put someone in 10 days, we need to make that clear. I think our intent is towards opportunity to correct your ways and be able to move forward in successful supervision not to be punished.

Justice Cadish: Okay, sorry you did you have a response to that?

Director Gonzalez: No, I absolutely agree and that's one of the things I really appreciate about this process. Which is we didn't have the time before, right, when these ideas were developed. I really appreciate the input that we're getting, and this is what I think this Commission is built for, to look at policies like this and flush them out. I will say I appreciate that and thinking about what do we want to intend because I agree with where you characterize it as far as the punitive combined with opportunity and understanding from what's happening on the ground and then what do we want to happen. One of the things that I want to identify here is I just think we didn't have as much as that opportunity when these reforms came through the first time. I'm appreciative of this discussion and whatever we need to make that clear what we're trying to do and then keep playing with it until we are confident that this is absolutely capturing our intent and it captures practically what can happen because that's one of the challenges here with this reform as well. Then measuring the outcome of that, that's my other thing I'm thinking about too when we're talking about this is how can we measure this to make sure we're getting the thing we want to as well.

Justice Cadish: The recommendation is as to both parolees and probationers. Right now, the parolees are going through this process to ultimately have a decision made by the Parole Board and the probationers are being considered by judges, is that right? Okay, so we're looking at a dip, at least the proposal is for P&P to be making decisions for these shorter so-called dips or house arrest or other more flexible options before having to go to that either the judge with a probationer or the Parole Board with a parolee, is that right?

Director Gonzalez: Yes. That's correct and I will point out, which I don't know if I highlighted that on this slide, I meant to, that's what's happening to probationers. They don't have to go through as lengthy of a process. There's an outcome decided much quicker, I believe within 15 days, about what's happening there. But yes, the intent would be to change that. Actually, I just lost track of your question because I wanted to make sure I prefaced that 15 days, sorry could you say that again.

Justice Cadish: I was just clarifying that the proposal would be as to both probationers and parolees, which are currently probationers are being the decisions are being made by judges, parolees by the Parole Board. The intent, if I understand it, is to introduce some earlier intermediate step that would happen through P&P authorization without needing to go through the process to get to either a judge for a probationer or the Parole Board for a parolee.

Director Gonzalez: That's correct. It would be to create this intermediate sanction so we don't have to go right to a temporary revocation, but the Division has other tools in their toolbox to have this elevated, I would say, intermediate response to technical violations rather than just going right to the temporary revocation.

The proposal, again the data shows that something has to be done about the parolees and but for consistency of supervision and it would still advance the policies the recommendation does include revising these same opportunities for probationers as well.

Justice Cadish: Is there anyone else who has questions or comments for the Director before we move on to the further part of her presentation? In Vegas perhaps, can you help me out there?

Mr. Callaway: Yes, Chair we have several. I have questions while we still have Mr. Hoffman, and Dr. Bradley and also Ms. Murray, so whichever order you prefer Chair.

Justice Cadish: I'm going to give you that discretion.

Mr. Callaway: Mr. Hoffman, do you want to start?

Mr. Hoffman: Thank you, I have just a couple of points of clarifications about the intent that I wanted to ask. The first is, we've been talking about how this is an intermediate sanction, correct? I just want to make sure the intent is not for this dip or this flash incarceration to be the first thing that happens, it would only be after other graduated sanctions have been exhausted, is that correct?

Director Gonzalez: That is correct. The way the matrix is set up right now is it would just be another element in that, and it wouldn't be the first response.

Mr. Hoffman: Okay, I would maybe be open to putting something in the statute to clarify that they can't just jump straight to jail time, that there has to be some other kind of, they have to do what they're doing right now essentially where they do all the graduated sanctions before the jail time. The second clarification I had on slide 12, it says any residential confinement must not extend beyond the unexpired maximum term or 60 days in response to a technical violation. I just want to make sure the intent there, the 60 days is a cap on how long residential confinement can last, but the intent is not that people can be on residential confinement even after their sentence is expired, do I have that right? Did I phrase that question in an understandable way?

Director Gonzalez: Yes, that's correct. I need to look at that statute again. I believe there's something in there that says that, that's an existing, that they can't be sitting there for time where they have already expired but that it wouldn't be allowed in that situation.

Mr. Hoffman: Okay, that's just something I would suggest to change on drafting then, because I think what you're describing, that is that subsection five, that we would be amending. I don't want to get into a situation where people are accidentally in prison even though they should be out. Those are my concerns thank you.

Mr. Callaway: Okay, we'll go to Dr. Bradley.

Dr. Shera Bradley: I have a couple of questions. First, in regard to the treatments and services that was brought up earlier, do we know what percentage of parolees have access to Medicaid or enrolled in Medicaid when they get out?

Director Gonzalez: I don't have that information, I can reach out to P&P and see if that's something, it looks like that's not something that we are able to track.

Dr. Bradley: My second question was about the electronic monitoring, do we know how long that takes to be implemented and what the costs are to the parolee?

Director Gonzalez: I don't know the time it takes. I do believe the cost would, if they're able to pay for it that they would. The cost does get passed on to the parolee or probationer. Not the whole cost but there is a cost for them to participate in that, which is the balance of providing a graduated or a sanction like that, is it does allow them that freedom and there's you know, they do need to pay for being able to have that as far

as like an opportunity so there is a cost I believe that's associated with that. I don't know how long it takes to get processed once they've decided that's what they're going to impose as a sanction.

Dr. Bradley: One last question that maybe I just missed this piece, under the probation, I think under probation, where it says that the days may not in aggregate exceed 30 days, can you explain why that is?

Director Gonzalez: Why wouldn't it go more than 30 days?

Dr. Bradley: Yes.

Director Gonzalez: There's a couple of reasons there, first it would be it then it's consistent with what was existing for the temporary revocation the first time right. What we've done is we've taken that first temporary revocation which was 30 days and broken it up into pieces. One of the things we talked about was what could be happening to someone who's being supervised and just needs an additional chance and so by having that lump 30 days all at once is very disruptive. By breaking up into pieces, it gives them more opportunity. Having that 30 days is consistent with the original intent of that first kind of check on so many technical violations that something else needs to be done. Then breaking up into pieces, we just didn't want any of the jail sanctions to go beyond what was originally intended for back to that temporary revocation. That's how the 30 days was chosen because it's consistent with what was already there now just being broken up into pieces and being administered a little bit differently

Dr. Bradley: OK thank you.

Mr. Callaway: OK well go to Commissioner Murray.

Julia Murray: I just wanted to mirror the intent concerns here. I read, if we're going to slide 10, when I look at section 1B, my understanding of the matrix here is that the past usage of graduated sanctions is but one factor that can be considered when deciding whether to move on to that step one, first technical violation, or whether it's something that hasn't happened at all. It can be used in a myriad of ways depending on who the probationers are or who I'm more concerned of in this context right now. With a probationer, if you're looking at someone and no graduated sanctions have been attempted, but, they fall very high on the other criteria here in the matrix, they're going to go in on a first technical violation potentially where we're going to skip over all of these things that are intended to keep people from being put right back into the system. I think if there isn't some guidance and there isn't some strong language that suggests that you have to take certain steps before you can just jump, what we're really going to see in practice here is that there is no longer a first 30 day there is a first 90 day on everyone and when we get into those probation hearings, the revocation hearings in the district courts we're going to see people who have had nothing attempted with them, because people are frustrated by their background, because people are frustrated by the lack of resources available to them, because people are frustrated by what they cannot provide to that particular individual. They're jumping to a numbers game of you're not going keep causing problems out on my watch, we'll put you in custody on a first attempt. I have some real concerns about it being as discretionary as it currently reads and I would like to see some language that guides back towards this being about rehabilitation, keeping people on probation and parole, allowing people the opportunity to succeed in these programs, and keeping people from going in and out of the prison system.

Director Gonzalez: I appreciate that as we want to make clear about our intent. I will point out paragraph B, it's on that slide 10, paragraph B, in that subsection one. Part of the existing graduated sanctions in the matrix, is taking into account factors. It says, take into account factors such as responsivity factors impacting a person's ability to successfully complete any conditions of supervision. The severity of the current violation, the person's previous criminal record, the number and severity of any previous violations and extent to which graduated sanctions were imposed for previous violations. That language does exist, and I think what might help is very clearly tying this to that, and so I'll check in with you and see what you feel about that, but the language is already there as far as the guidance and I think your concern hopefully isn't happening right now already, right, because I think that was the idea, we don't want to see any of these

sanctions in the existing matrix being jumped ahead too quickly which is why there is a matrix in place and why there's this statutory guidance. If that were a concern, it's something I would like to look into right now, if it's something we're concerned about already with the existing sanctions and again because we're adding this intermediate sanction, I appreciate the concern, that now we need to make sure this really still fits into that. That would be my thought about just making sure it ties into that paragraph B, does that paragraph B address kind of what you're talking about and if we were to closely tie those together, would that address that concern?

Ms. Murray: I'm not certain. I mean I read paragraph B to say, these are the factors that go into the matrix, and these are the items that you need to look at within the matrix. You could have criteria that falls under a person's ability to successfully complete the conditions, but then you might have nothing to put in the column of the graduated sanctions I've previously attempted, because I didn't try any and nothing here says that you're required to try any. I think that we need something that says if we are going to eliminate the low-level sanction, and replace it with a theoretical intermediate sanction, we have to have something that says you must use an intermediate sanction.

Director Gonzalez: Thank you for that. Does P&P want to comment on that at all?

Natasha Koch: We do have, not sure if anybody on the Commission's seen our matrix that we have currently for our sanctions. Has anybody seen that? No, okay, we can get that to whoever wants that information. We do also have policies in place that step out where our officers have to go to, to go to these graduated sanctions. They're not going to just jump to those, and they also make chronological notes of those in there when they're dealing with all of their offenders. We were discussing making a matrix that has something of the new language put into it that we could also supply to you, if that would help?

Ms. Murray: It certainly might, I haven't seen it so I can't say yet.

Ms. Koch: Okay, we'll get the original one that we have right now to you so you can at least look at that and then when we make the new one, we could also get that to the Commission.

Justice Cadish: Thank you, it sounds like that would be helpful. Go ahead Mr. Callaway.

Mr. Callaway: Thank you Chair. I think I'm the only one left down here with a question. It's no secret, first of all thank you Victoria for taking the time to meet with myself and our staff from the jail a couple of weeks ago regarding this recommendation. I don't think it's a secret that I don't support this recommendation; I have major concerns with it. Ironically, I kind of look at some issues on the opposite side of the coin as some of the other Commissioners have expressed. I think my frustration with this lies in the fact that number one, under Assembly Bill 236, we created this system of graduated sanctions, which basically gives someone five bites of the apple so to speak. A judge tells someone, you're on parole, stay out of trouble, don't drink, don't contact the victim, you have to pay restitution, and a number of things and the person says, I'm not going to do any of that, I'm not going to listen, I'm going to drink, I'm going to go meet the victim, I'm going to harass them further, and then boom graduated sanction #1 comes in. They get a slap on the wrist. They continue their behavior, graduated sanction #2 kicks in and we've created this system where now multiple bites of the apple take place before someone is held accountable for their actions. I believe that this proposal actually expands upon that and creates further opportunity, further expansion of those graduated sanctions. I also see this as having a negative impact on our jail.

I know that Victoria, you discussed the time of stay on average and how this may benefit time of stay, but I see this being used as a tool where people are being reprimanded to the jail and I think your words were actually, I wrote him down, that adding jail time, quote adding jail time as a sanction. We're actually diverting from the Department of Corrections to the local jail facilities with this. My question for you, kind of looking at it from a different perspective than some of the other Commissioners is, do you see this as expanding upon AB 236, because those five bites of the apple still would take place under AB 236 before this recommendation would take effect, is that correct or am I misreading the recommendation? If that's the

case, then then maybe the concerns of the other Commissioners are valid that we would jump to this, which you know again I don't know, so can you clarify that for me please?

Director Gonzalez: Thank you, Mr. Callaway. I did not want to paraphrase anything that we said, I didn't want to represent your position, so I appreciate you sharing your concerns so that we can have those as part of the discussion.

I do not think this expands anything that was in AB 236. My intent here was looking at the policies that were intended from AB 236, and the way to me the language came out did not carry out those policies. I think that what they intended to create were these other opportunities. In some ways I think, by removing that first one in a way either we have the same result as what we had before, or in some ways it's providing an opportunity, but in one capacity in supervision, but limited in opportunity for temporary revocations. I think ironically it might actually be taking away from that opportunity for temporary revocations because there's not as many temporary revocations that can be used before a full revocation is pursued, and there's this other opportunity in supervision. That is my thinking of it, is it shifts it around a little bit in order to say, if this is what we intended by AB 236, I think this is what it actually looks like. I don't know if that's the intended outcome that this Commission wants, that this Legislature wants, that the State wants. My take on this is, here was the policy that was stated, and if you actually wanted to accomplish the policies that were stated in AB 236, I think for our State, it actually looks like this. Because as we're very aware, these types of recommendations are made in different states. I can say we looked at this in Louisiana. They have a very similar structure, I think their dates are a little bit, there number of days that someone serves for temporary revocations is very different. They had this intended policy, and something like this works for them very differently than it works for us. My intent with this, is if this is the policy that you would like, not you, but if this is the policy of the State wants to enact or that was intended by AB 236, this is what it looks like. If that's still not what we're interested in is as a policy, then we can look at it from a different perspective.

That's my intent with this is not putting my thumb on the scale on either one of these issues, it's just, I think this is what it actually was intended when they articulated what they wanted with addressing this type of supervision. That's my take on it. I don't think it expands it, I think it moves it around a little bit and in some ways limits it over here, and maybe provide something over here and so this vision of me in the way that shifted is, it could be maybe it's actually taken away from over here a little bit and what's over here might not be the same, but I think it'll actually accomplish the policy.

Mr. Callaway: Thank you.

Justice Cadish: Was there anyone else in Las Vegas waiting to speak on these issues that we've, have been covered so far.

Mr. Callaway: No Chair, that's it.

Justice Cadish: Okay. Mr. Arrascada, did you want to speak?

Mr. Arrascada: Yes, I had a question, I guess and/or comment. I apologize I was unavailable to meet with you this last week on what we're talking about now. Just so that we are clear, we're talking about technical violations that lead to these events. It seems like, I'm a bit concerned with the proposed language to revise the definition of technical violations, that it makes the failure to specialty court or the termination at a treatment program for whatever reason, is it becomes a non-technical violation, which can lead to revocation. I don't know if we're accomplishing the goals of AB 236, or the Commission if we're expanding what are no longer technical violations and then contracting the opportunities for graduated sanctions and success.

Director Gonzalez: I had not thought of it that way before and that's very interesting. We'll talk about that when we get to the definition more, I can talk about what the rationale was behind that. I would say that I do think what's happening with the way the statute is currently enacted and codified, does not deliver the swift,

certain, proportional responses in the way that it was intended. I think it's also going to maybe Dr. Lanterman's point when we start you know doing something over here because it's not addressing a certain outcome and then we started doing something over here are we still getting in the outcome we want? When I look through the lens of like is this really providing those swift, certain, proportional sanctions, I'm not sure. Some of this data shows me that's not happening, I'm concerned about that. When it comes to making those changes to the technical violations which we'll talk about, it's a different policy that I'm thinking about, it's more about what's happening on the ground in terms of public safety and the challenges that P&P may be facing as far as like how to respond to somebody who's not complying. You bring up a good point and I when we talk about that more, I'm going to think about that as I think about that policy, and when we discuss that further. That would not be my intent. My intent would not be to contract something over here and then open up something over here; my intent would be, are we really providing the tools to P&P and the opportunities the individuals to be supervised, based on we're worried about the swift, certain, proportional sanctions, we're worried about public safety, and we're worried about cost effectiveness? I appreciate that input.

Mr. Arrascada: I also just have, I guess this is more of a comment not a question, that I do not see how this goes forward without considering funding and budget, because it's really asking P&P to have more hands on supervision and work with somebody, but P&P does not have to my knowledge, the resources or bodies to do that hands-on work which is I believe proven to be successful if you look at specialty court outcomes where there's more hands-on working with the person that's been convicted or is going through the specialty courts. I don't see how we can have the discussion and make these changes without expansion of the Parole and Probation's budget.

Director Gonzalez: I think it's always a given similar to what my responses to Dr. Lanterman. It's P&P is, and even before this, is I can't even think of which adjective to use grossly underfunded. We put so much on supervision, they are law enforcement, they are social workers, they are support groups, they're everything. I agree they're already facing that, and I think a reminder of that anytime we talk about supervision is really important. We'll talk about that also when I talk about the cost avoided report, reminding everybody about what's happening. It's not just P&P, it's DOC as well when it comes to programming and that I would say is a big, if we're going to talk about unrealized policies and intentions of AB 236, that's a big gap, a big policy behind that was, we are supposed to provide these opportunities for behavioral, for mental health, for substance use, and we did not get that funding as an upfront, I would call it investment in reinvestment, when AB 236 was enacted. We're already behind the curve and so I hear you on making an additional change that may burden them more. I will say that these recommendations were developed with P&P. Their input has been a big part of this and trying to respond to their needs and what's going to help them improve supervision and what they're seeing on the ground. I think that puts a lot of strength behind the policy recommendations themselves and what they are saying, this is what's going work best for us and still advance the intended outcomes of AB 236, and anything like this. Then if the Chief wants to comment about the funding, I think that's a great thing to be aware of now, and then we could talk about that now and I don't again, to Director Cafferata's point about addressing the funding issues in the policy, they're going to come up. I think we could talk about that now and be aware of it we can think about how to address that too because you bring up a very realistic problem that existed before and it's going to continue, and I absolutely want to be a support for the agency and how do we always remember don't forget to give them money because they struggle already.

Justice Cadish: Did you want to speak then Ms. Koch?

Ms. Koch: How do I put this bluntly? It's our staffing levels and of course we can't keep anyone because of our neighboring jurisdictions and partners pay much more than we do, so right now our issues are staffing. If we had staffing, this wouldn't be an issue with the way it's written. The problem is, example in the Reno office we're about a 38 percent vacancy rate with our officers. If we cannot stop that bleed, then yes, it's going to be more work on our officers. Our officers are phenomenal and do everything they want and all of

them are very passionate and want to do the best for all of our offenders that we have. They're supportive of this, but like you stated before, it's just the matter of our vacancy rates. If we can get people, it would help, so, if anybody can support that.

Justice Cadish: Are there any other comments on the part we've heard about so far then? Yes, Dr. Lanterman.

Dr. Lanterman: Thank you. I have a follow up question on Dr. Bradley's question about electronic monitoring fees for parolees. I'm wondering if someone from P&P might be able to speak to this. If a parolee is unable to pay a standard electronic monitoring supervision fee, is there discretion or do those fees exist on a sliding scale? Or is there an option to waive that fee if a parolee is unable to pay it, so that we avoid the challenge of the nature of a person's supervision being entirely dependent on their financial status? Because if the sliding fee scale doesn't exist, if there's not an option to waive the fee, now what we have is a differential access to justice issue. I'm wondering if someone can speak to what those electronic monitoring supervision fee policies look like? Thank you.

Ms. Koch: To be honest, I don't know about the sliding scale, but I do know that we have state funded house arrest that is in our budget, so when people cannot afford to be on the electronic monitoring, we do have some budgeted money to be able to support that.

Dr. Lanterman: Thank you.

Justice Cadish: Thank you. Ms. Welborn.

Ms. Welborn: Thank you, Justice Cadish. Holly Welborn, ACLU of Nevada. I just wanted to take a little step back if you could remind the Commission of the bill draft request deadline, I think that would be helpful and help us focus on what needs to be achieved by the end of the day. Thank you.

Director Gonzalez: Yes, and actually I'm glad you brought that up because it did get extended a little bit. Originally the deadline was May 20th to submit our BDR, we now have until June 1st. My proposal would be for today, that because we do have some time ahead of us still, as we move through these, by the time we get to the end, we can start based on everyone's had time to reflect on a little bit what we discussed already. We could put together what changes we like to see, and we can hash those out when we're done today or when I'm wrapping up today to figure out what we could approve. We're working towards the June 1st deadline and the intent would be, if the Commission agrees on the, I'll call the conceptual amendment or the conceptual recommendation and we agree on this is what it should say and this is what it'll look like, then I can continue to work on language, the conceptual and the Legislative history that Director Cafferata recommended and circulate that not only to the agencies but to the Commission members before the submission, so we can get feedback that way. If the Commission can agree and approve the conceptual part of it, then we can circulate the language; I can circulate the language with you individually to get that feedback and make sure it's very refined along with the conceptual language and along with the Legislative history before that June 1 deadline. That'd be my proposed recommendation for how we wrap this up when we're ready to go there.

Justice Cadish: Thank you was there anything else before we move on with the Director's presentation? Not seeing, okay, so why don't you go ahead to the next piece.

Director Gonzalez: Thank you, Chair. Moving on to the second recommendation that we're putting in with these AB 236 recommendations. As Mr. Arrascada pointed out, the definition of a technical violation is a list of exemptions. These are the things that are exempted from what is not a technical violation. I believe this will probably come up in some of the questions in discussion that we have. You can see the intent here was not to codify what are these conditions that fall under this. I think there's some legislative intent here as far as how we think about this definition, that it is about exemptions, but this is the way that it's structured. Because of the way that I'll say too this is how it's structured in other states, I've looked at these-definitions

in other states, it's very similar. You have the laundry list of exemptions that it's not when we're trying to figure out what is a technical violation.

The recommendation here is related to revising this definition which would be to add additional exemptions to the definition. The two recommendations are, first to exempt from the definition, the statutorily required conditions for sex offenders and then exempt certain offenders who were ordered to participate in a treatment program. The impact here, that we're looking as far as the policy to advance, is that for in terms of the sex offenders is it doesn't frustrate the scheme that's in place that governs sex offenders. The conditions that govern them are a different set of conditions, those conditions do include some conditions that would be technical conditions, but they're combined with conditions that are specific to sex offenders. By not having them exempted from this, those conditions could be considered or are considered technical conditions that could be a technical violation rather than a violation of supervision in general.

As far as changing those certain offenders that are ordered to participate in a treatment program, what we talked about at the February meeting, was that having proportional sanctions to those who are not complying with treatment programs they've been ordered to participate in. There are different concerns here, as far as public safety, not only to the individual who is supposed to be participating in this program and is not, and leaves without authorization or is no longer able to participate due to their lack of participation and the concern that can lead to in terms of the public safety of that person, because this person should be receiving treatment and they are not getting the treatment they need and if they've abandoned that program, then there's a concern there. Then the other concern is related to the public safety so the safety the individual and the safety of the public are the two things that by exempting them that's the intent again the intent of exempting them from this, is about addressing the safety for the individual and for the community when you've got somebody who should be getting treatment and is not getting the treatment that they need.

The drafted, the proposed language that we have here on slide 16 is what this would look like. By just adding to that list of exemptions, it has a violation of a subparagraph I believe, is subparagraph eight, is a violation of a condition required and those are the sections related to conditions for sex offenders. Then what we have articulated here is the termination from a program which provides residential treatment as ordered by the court or Board as a condition of supervision. This isn't just any program that someone is not participating in; it's a program they've been ordered to participate in and they're not participating in it, meaning that they've left.

Then other programs that are related to a parolee release plan, which is tied to what they put in their plan before they were released. My attempt at trying to create a flush line right there, the term does not include termination from a specialty court program, that's existing language that's why it's in black, and so it goes under I think it's there as a flush line because it doesn't quite fit in with the wording structure of the statute. You can see we're trying to follow that structure a little bit here and so that is existing but the ones in blue would be the proposed language and so I believe that's that. So I think maybe based on we did before do we want to, I can turn it over to the Chair and we can discuss just this item before I move on to the next recommendation.

Justice Cadish: Is there anyone who feels like they want to jump in at this point? I do see someone in Las Vegas.

Mr. Callaway: Yes Chair, we have Mr. Hoffman.

Justice Cadish: Okay, go ahead.

Mr. Hoffman: Thank you, Justice Cadish. Thank you, Mr. Callaway. I just wanted to express a couple concerns I have with this. The first is that Director Gonzalez talked about the intent is to effectuate what was already happening with AB 236. I think there's a problem with the provisions that would make termination from a treatment program a non-technical violation because if you look at the line right below that, the term

does not include termination from a specialty court program. I feel like in practice, the main reason you get terminated from specialty court is because you got terminated from whatever underlying drug treatment program you're in. I think the reasons for that are often things that would otherwise be considered technical violations; somebody tests dirty so they get kicked out of the drug treatment program. I think existing statute says that that's not a technical violation and I think there's a good policy reason for that. I think if our goal is just to effectuate the policies of AB 236, I don't think that language should be in there.

My other concern is with the sex offender conditions, that's a very long list of things and I think it makes sense to treat some of those as non-technical violations; for instance, if you have contact with the victim, that's a violation of the sex offender condition. I think that should also be a non-technical violation. But then some of these things are like, if you have alcohol or if you have marijuana, that's a violation of a sex offender condition. I think that's the exact sort of thing that technical violations is supposed to address. I don't think all sex offender conditions should be blanket placed within this definition of a non-technical violation, I think that should be more of a case-by-case basis. Thank you.

Director Gonzalez: I have a couple of thoughts about that, so it would be possible. I reviewed these statutes on my own and then with Parole and Probation, we've tried to just make sure we convey the intent we're trying to do. I will say first, I think it's significant that when AB 236 was enacted, that what is a technical violation was not itemized as a list. That suggests to me there's an intent there for flexibility and understanding. Obviously, we're talking about certain types of crimes and certain situations then those should be technical violations, but that list does not exist in statute, as far as these are conditions that are technical.

Then I think what's also significant is the way that these statutes are that govern sex offenders and these conditions, they did list all these conditions together. Now, when these were drafted initially, technical violations did not exist right, and so but they did list all these conditions, that's where they did itemize a list.

As far as legislative intent and the policymakers, when they developed these conditions for sex offenders it listed these are conditions that must be provided to a sex offender. It has all different kinds of conditions that some are standard conditions for other individuals on supervision and some that are not. I'm not sure what to do with that, when you start incorporating something like AB 236 into the mix, when you start trying to create this technical violation. I think that's what this Commission could be equipped to do, is analyze the policy and think about, what are the policies behind having this list of conditions for sex offenders but not for other individuals on supervision and is that something we want to start redlining.

It would be possible, and I did have this conversation, it would be possible to take some of those conditions that exist and redline them and then put them in and specify them, these are the types of conditions we're talking about for sex offenders. My concern with that is as far as sustainability of the statutes, if things were ever changed, someone would have to know that these sections listed these, and this was the intent of all these conditions. That is the challenge I think of these technical violations and the challenge that you can see is trying to carve out. Here's another example of maybe where this isn't a technical violation or is it a technical violation, that definitely is a policy decision.

I'll just point that out as far as what was happening at different stages of the Legislative intent of these, and I don't have an official recommendation on what to do with that. I would just point that out when we start going down that route, which we're kind of doing right now by adding these exemptions, is just make sure we think that through as well and what was the intent? What is the intent of this Commission? What would it look like to recommend as a policy? I appreciate the concerns with this and the input and would be happy to adjust these however the Commission sees fit. I can explain that was the rationale for drafting it this way, was taking all those things into consideration.

Justice Cadish: Thank you. Were there any other comments or questions about this portion regarding the technical violation definition? Not seeing anyone. Okay, Director can you continue?

Director Gonzalez: Moving on to the third recommendation is related to the absconding definition which was codified from AB 236. One of the things that we talked about before was the recommendation, I did not when we first presented this back in February, did not explain the existing process for absconding and so decided that another chart like I've used for the other procedures would be helpful. I worked with P&P on what they currently do. This will, I hope better illustrate the recommendation that we have before this Commission for a BDR.

Currently what happens is P&P will discover that a parolee or probationer may be actively avoiding supervision, that is the term that they use. Then what P&P does is it has similar I would say to the matrix that they have developed as far as how to respond to supervision to challenge the supervision or issues that come up. They have policies and procedures in place that identify exactly what has to be done before any sort of action is taken. According to the existing policy and procedures that P&P has right now, they have factors, they have very specific factors, that clarify what actively avoiding supervision is. Their policy states all of these factors must be met. Examples of these factors are failure to update your contact information with P&P, failure to report, failure to notify P&P of employment change, or just that they're unable to contact. Again, the policy states that all these factors must be met. Once P&P reviews those factors, P&P attempts to locate the individual and they have again a list of things that they are supposed, a list of resources and contacts they're supposed to go through to try and contact the individual. You can see that includes contacting family, friends, counselors, employments, law enforcement agencies to see if that individual has been picked up on anything else recently and then reaching out to utilities. They have a lot of resources they're supposed to check to try and find this individual who they cannot locate.

Additionally, P&P reviews various law enforcement reports, they request reports, they go back through the PSI's to look for contact information, is there any place we haven't looked as far as anybody else we could contact regarding trying to find them, any family, friends, again they attempt to contact all these individuals, can we find this person? According to the existing policies and procedures of Parole and Probation, if all the factors for actively avoiding supervision have been met and all attempts to locate have been exhausted, then the officer, based on the current statute, must wait 60 days from the discovery of a parolee or probationer who is actively avoiding supervision.

One of the things that we're concerned about is that time that after the P&P is already gone through everything they could to try and find this individual they need to wait. That's based on the definition that was established in AB 236, that absconding is 60 days of avoiding supervision. What would happen then and currently, is an officer would then wait 60 days to toll and then submit the violation report and warrant for after that 60 days for actively avoiding supervision, if they still have not been located. I will note too, that in the policies and procedures, if somebody appears things can be adjusted. They don't have to keep going down the path of absconding currently, if someone has appeared and clarified what happened or what the situation is. I just wanted to explain what the current processes right now. What P&P is currently doing to try and locate these individuals who are avoiding supervision and then what the impact is by having a time constraint like this on them looks like if you think about the whole procedure.

The recommendation here is to create what we called a path to absconding, rather than a set number of days. Because the Division has this set policy and procedure and has this policy that requires them to exhaust all their attempts, to make sure all these factors have been met, that shows they have already kind of created a path to absconding. What could be limiting them is the 60 days depending on the individual. The impact that we're hoping to accomplish with this revision by removing the 60 days, is that P&P again can use effective sanctions for changing behavior. They still would have the discretion if someone appears to evaluate the situation and decide there's a lot of things that can lead to someone not reporting right, if they can't find a phone or if they literally don't have any way to contact, there could be other conditions here outstanding, but this actually allows them to evaluate that, instead of just relying on that set number of days.

Again, ultimately, a finding of absconding, is going to be left up to the court or the Parole Board. Just because P&P files that report doesn't mean that's going to be found that they absconded. This is consistent

with the path to absconding that P&P's got to do their due diligence in exhausting all their resources, making all their appropriate attempts, and then it's going to be up to the decider to determine are we going to make a finding here of absconding and then respond to it appropriately. The intent here too would be to improve public safety as P&P does not have to wait the 60 days. This is similar to what we were talking about on the technical violation. Depending on the individual, which they're going to be able to assess from the report and from what they have before them, if we're talking about somebody who could be a danger to either themselves or the community, if P&P has done their due diligence and exhausted all their resources and we're talking about someone that could be hurting themselves or others, they don't have to wait the 60 days; they can respond to that.

Again, if they find that person and they find that individual has a very good explanation about why they were not contacting them, P&P has the discretion to then address those concerns and not pursue absconding. This doesn't remove anything that P&P is currently doing when they're exercising their discretion when it comes to absconders or someone who's actively avoiding supervision. What the proposed language that we have here, this would be the place we start for the language. I took some of the intent and the ideas behind the existing policies of Parole and Probation and just put them here. What it would do is change the definition, so removing again that 60 days, and then codifying what the Division's already doing. The Division has already created these policies and procedures for absconding and what this does is by requiring the Division to exhaust all those attempts which they're currently doing, and then factors that they've developed, which they currently do, we're putting that into statute and that would be the recommendation here to govern absconding.

One of the things I mentioned at our February meeting is that absconding is inconsistent from state to state. Not every state has codified their definition for absconding. Sometimes it's a court rule, sometimes it's just a policy and procedure with the division, and the range in times is all over the place. Some of them have a set number of days, some of them have a path for absconding like this, some of them are very vague and provide little or no guidance and so I think this recommendation is very much tailored to what works for Nevada. We can see this is what's happening now and it's what was happening before, and I think might even improve what was happening before as far as how we want to respond to absconders and ultimately again the intent would be to implement the policies the way they were intended from AB 236. P&P actually gets to respond to the individual more about what's happening and not just have to rely on a set number. Which I think makes sense for absconding when you're talking about someone who's having difficulty or challenges in complying with supervision, this just allows them to figure out what works best and implement that in their policies and adjust as needed.

Justice Cadish: Thank you, Director. Are there any questions about this specific portion of the presentation or, yes, in Las Vegas, Mr. Callaway?

Mr. Callaway: Thank you, Chair and thank you, Victoria. My question is pretty simple, when I think, first of all I like this proposal. I mean I can't fathom in my mind that somebody could abscond and not be able to be contacted by P&P for 60 days before they would be able to take action, so I applaud this recommendation.

My question is this, on subsection two of the proposed language, it says the Division has exhausted all attempts to locate such a person based on factors developed by the Division. We all know that the details and exhausted all attempts seems to be pretty stringent, I mean you could argue well did they call Aunt Tilda who lives in Kansas? This guy used to go on vacation in the Bahamas, did they check there? It seems to me, that that language should read, the Division has made reasonable attempts to locate such a person based on factors developed by the Division. That would be my recommendation that that exhausted all be changed to reasonable attempts.

Director Gonzalez: Yes, if the Commission decides to approve that change, that absolutely could be done and I would say, I think what would happen in practice is that P&P would still do that, because that's what their policy says right now and then but you're right the statute will then still govern generally what should be

happening and then I'll say based on what P&P's developed already that's what they would be doing and so it would definitely meet the practicality of what they need to get done.

Mr. Callaway: Chair, we also have a question from Mr. Hoffman.

Justice Cadish: Okay, go ahead Mr. Hoffman.

Mr. Hoffman: Thank you. I have a question and then a comment. My question is, according to this chart, how it happens is NPP discovers that a person may be actively avoiding supervision, investigates that, only then does the 60-day clock start running? Is that an accurate statement of how it's working in the current status quo?

Director Gonzalez: That's a great question. I believe the way it works, is as soon as P&P has discovered that the individual's actively avoiding supervision, is when the time starts. It's when that discovery is first made, is when the 60 day starts.

Mr. Hoffman: Okay, but it doesn't backdate, it doesn't back date to the last time they had contact with the person or something like that.

Director Gonzalez: I don't believe so, let me just make some eye contact, it does not.

Mr. Hoffman: Thank you and so then my comment, so I did a lot of research on this on my own. Nevada's 60-day number seems to be in the middle, and this is a weird situation because there are some jurisdictions that are more traditionally conservative and harsher on criminal defendants like Arizona and Texas, where it's 90 days, but then in California it's only 30 days. It's kind of a weird situation but we're in the middle of it with the 60 days. To me, I think the middle is about where Nevada should be, I think 60 days is sort of a reasonable compromise.

That being said, it seems kind of weird to me that somebody can be hiding for some indeterminate amount of time and the 60-day clock doesn't start running until they discover it. It looks to me like that's just something that P&P is doing. I don't read that as being required by the statute, so maybe a like potential compromise here would be to keep the existing statutory language and just make it clear that P&P is allowed to backdate it. If they discover that somebody hasn't been in contact with them, because you know, the address is bad, and they go to the address and the landlord is like they moved out a month ago, they could be allowed to backdate it to then. That would help address some of these concerns about public safety and like the practicality of it without, my concern is that these amendments would sort of give P&P almost unlimited discretion in how to treat this.

Another of the themes that I discovered in my research is that absconding is primarily a problem of poor people and sometimes that's poor people actively trying to hide. But then that also can be just, it's a homeless person and they don't have a fixed address. It's hard for P&P to get in touch with them and my concern is that sometimes that could create an incentive for the parole officer to just throw up their hands and declare that the person has been absconded. I think that existing statute makes it hard to do that, but if as Mr. Callaway suggested, we make it all reasonable efforts based on factors determined by the Division, then that's them getting to set their own rules. Not that they would knowingly do a bad job, but as Chief Koch said, there are staffing issues. There might be incentives to kind of cut corners there. I'm currently a No on this I guess, that's where I'm at. Thank you.

Director Gonzalez: If I could just respond a couple of those things. We talked about, when we were reviewing this idea, we talked about just changing the number of days and there's a lot of different challenges that can go into that. One of the things that you and I talked about and that actually we talked about when we were developing the idea was that when we were trying to pick a set number of days. The way that the Interstate Compact works, is it in practice, it's 30 days. That's where we started thinking about what works out practically, and you and I talked about what happens in that situation, obviously is it, it's in a

different situation because we're talking about different states being an issue. Of course, something like 30 days make sense.

Me learning more about the process, what that tells me is, that flexibility is important, and I do think it's important for supervision and so I'll just say that as far as the rationale for when we try and pick a set number of days. I'll say when I went back and reviewed the record that led up to this day, based on your you know research too, you found that we're kind of in the middle but based on what the record reflected it didn't really state where this timeframe came from. I think reflecting on what's best for our State, and what's best for what kind of supervision policies are we trying to advance, that would be the question I would always want to make sure. Whatever time we choose, like I said, I don't have a preference on this, this is just based on my research and my working with the stakeholders and the agencies. This the recommendation I have. I would say ultimately, whatever the decision is, is make sure that it's advancing the policy that you intend and to me, that's about making sure someone has many opportunities.

To the other point you make, that's where I'll go to the other point you make that, that could be happening right now with someone who is indigent. What I would say is, based on what the policy and procedure P&P has in place, that they are addressing that. If they were to come across someone who is indigent and had challenges as far as they were able to contact, they could stop the 60 days. Because that challenge could still arise currently if the days are tolling and you get to 60 and they still find out the person, the challenge is related to something that's worth understanding trying to work with, that could be happening right now. I think trusting the Division based on the scope we give them with what's in statute and moving especially if we're if we're codifying something they're already doing, I'm hoping will promote that policy. But I hear your concerns about this and it's something that I agree is something to take into consideration. Then based on what this Commission decides, that would be my input when it comes to like if this Commission starts wanting to talk about certain number of days, just keeping that in mind. Then of course Mr. Hoffman concerns about indigent individuals who are being supervised.

Justice Cadish: Are there other comments? Mr. Arrascada.

Mr. Arrascada: Yes, regarding Section two, similar to the matrix that we discussed, the factors developed by the Division to define absconding. Can that be provided to the Commission, if it hasn't already and I just missed it?

Director Gonzalez: Yes, it is those things listed in the, we can, and I got the nod from the Chief, we can do it. You'll see that what I've got listed in that second bubble, that came right from that list. I put examples, only because I paraphrase them, but those are those items but if you want to review those factors but then also, it looks like I got the nod from the Chief, that we can also provide that along with the matrix.

Mr. Arrascada: Okay and then I would suggest, you mentioned that absconding is a determination be made either by the Parole Board or by the court. P&P should be presenting data of absconding as opposed to advocacy of absconding. I would recommend that in section two, that it states the Division has exhausted and documented all attempts to locate such a person.

Director Gonzalez: Perfect. Thank you.

Justice Cadish: Thank you. Dr. Lanterman?

Dr. Lanterman: Thank you. I agree with Mr. Hoffman's recommended revision that we can backdate that absconding period if we're going to have a period of days to when there's a discovery that a person is avoiding supervision. But I also think that P&P staff need some flexibility to account for parolees who are assessed as high risk on the Nevada Risk Assessment System so NRAS or sometimes referred to as of ORAS, who have a history of crimes against persons. Because that's a public safety issue at that point, a lot can happen in 60 days. I think we might need to account for both in the language here, but I do take Mr. Hoffman's point that there are a lot of issues tied up with supervision and challenges complying with

supervision requirements when a person is indigent, they don't have stable housing. If there's a decision or a matrix regarding assessing a person is having absconded then maybe, if it does not already, include conditions regarding homelessness or lack of stable housing. Then maybe we can integrate that in there because I think these are all sort of issues we have to deal with we don't want a situation where a person is treated differently because of their financial and housing status. But we also don't want a situation where Parole and Probation cannot respond to a situation where a person who is high risk, or very high risk or has a history of crimes against persons, especially in their most recent round of convictions, that they can't respond before you hit a 60 day mark. That can that sort of runs counter to their duty regarding supervision in public safety. Thank you.

Justice Cadish: Thank you. Were there any other comments or questions? Yes, Mr. Hicks.

Chris Hicks: Thank you. I guess I just have a comment, it was not long ago in this State, as many of us on this Commission can I'm sure relate to, where much of the responsibility fell on the probationer and the parolee. Now there can be arguments one way or the other and I certainly respect both of them, but when someone is given the opportunity of probation or given the opportunity of parole, there should be some burden on them, not just all on the Division to make sure that they're absconding. If a parolee or probationer chooses not to check in, which is not hard to do in this day and age, whether you're indigent or not, there should be consequences for that. What I would suggest is, what you're proposing here is very reasonable, it sets a balance. The other point I would like to make is, as Mr. Hoffman said, an indeterminate amount, just 60 days, so let's just set that, well one thing we've all acknowledged in the last hour is that P&P is woefully understaffed or underfunded. Well the current 60 day system really lends itself to a tremendous waste of resources because P&P could go through all these steps that are in your chart there and then they have to sit and wait. An officer puts in all this time to again determine that someone is absconding, when that person is the one who is absconding, is not taking the personal responsibility to check in and then on day 59 that person could call, and all that work is wasted. It's a waste of resources and I would venture a guess that that happens frequently right now.

There's no question and forgive me for my comment, but I think that the way this is written strikes a balance, a very fair balance, one that puts a burden both on the probationer and the parolee and on the Division to make sure they're doing all their resources. But let's not waste the resources, let's be reasonable about it.

Justice Cadish: Thank you. Are there any other comments or questions? Yes, Ms. Bays.

Chief Michelle Bays: Just wanted to add to that to think about adding some other discretion in there, so that when you talk about all of the factors that they have to evaluate, there could be times when that, there's just clear and convincing evidence. The first step that you take you are aware that, the Division's aware that this person is obviously absconding. So not to have to take all of those and satisfy them, so some sort of language that says with clear and convincing evidence or barring that, that they can simply move right to filing an absconding report.

Justice Cadish: Thank you. Anything else? Mr. Callaway.

Mr. Callaway: Chair, may be a question for P&P, but after the current process has run its course and they've gone through all these bubbles on the chart and they've waited the 60 days, then I'm assuming they would have to file for an arrest warrant for that person if they're unable to locate them and I guess my question would be what's the time frame for that, that would then be on top of the 60 days? I guess from start to finish, can P&P give me an idea of what the total time frame is, if I just say, not following the rules, not checking in, I'm skipping town, how much time do I have on the run basically before the system finally catches up and says okay, here's a warrant for Mr. Callaway's arrest because he's supposed to be checking in and he hasn't? Can they advise what the total time frame is from point A doing the research, you know, collecting the data, going through the steps, 60 days, filing for a warrant, warrants in the system, what are we looking at?

Aaron Evans: Good morning, Commission. My name is Aaron Evans, I'm a Captain with the Division of Parole and Probation. To Mr. Callaway's question, I don't have a set number of days but most of the time we discover somebody is actively avoiding supervision when they miss an appointment. That's kind of what is that first indicator that something might be amiss and so, it may be that week, the next week that our officers have time to get out to check the residence to find out if the person is still around. If they're not found at home, maybe they're not home, maybe it looks like they've moved out, then we've got to go follow up with employers or counselors or whatever. Once we get past that 60 days, our officers are instructed actually to be working on those reports and requests for warrant prior to that 60-day expiration, so that the minute that 60-day expiration hits, they can submit that report to the Board or to the court to request that warrant. Usually, we get those back fairly quickly, but we're still talking days, weeks, whatever, we are at the mercy of you know the court and Board and then those warrants have to get entered into NCIC so that they can be active everywhere. Unfortunately, I don't have a specific answer, but it is certainly greater than the 60 days, because that's best-case scenario that we can identify the fact that they're avoiding us, check their employer, residence, counseling, friends, family, and then submit that detailed report to the proper place to get that warrant.

Mr. Callaway: Thank you. Just to make sure I understand correctly, under the current system that we have, somebody who's actively avoiding supervision can be out doing their thing, so to speak, for potentially months before finally a warrant is issued for their arrest and this recommendation we have before us today, could help shorten that timeframe, is that correct?

Aaron Evans: That is correct. To the first part, our lower risk individuals don't report every month, every couple of months, so if somebody reported to me back in March and then decided to move out of state and take off and abscond, I'm not really going to know until May or June when their next reporting date comes up, and they're like, oh, so and so didn't show up today. Then that starts the process of me trying to track them down. It could already be three months that they've left the State before I even realize that they're gone, because they were assessed at a lower risk but chose to leave without letting us know anyway. Yes, they could potentially be gone for many months before we know. This proposed language lets us, we could still have those longer periods where they don't check in and we don't find out till they're gone, but if I don't have an exact date to pinpoint when they chose to actively avoid supervision, I basically just have to default to them missing their appointment, right.

Mr. Hoffman brought up a good scenario that made sense, that if I go to their apartment today and it's completely empty and I talked to the leasing agent and their like, oh, they moved out on April 15th, they didn't leave any forwarding address. Then I go to their employer and employer's like, oh yeah, they no-called no-showed three weeks ago and they've been terminated. Through our investigative efforts we can tell they probably decided to actively avoid supervision around April 15th, right, because they moved and they have a condition that says they have to let us know when they move and they chose not to. To Mr. Hoffman question, we would backdate it to that date, that I would feel comfortable telling my officers they could go to court raise their right hand, and swear a testimony, that yes, I believe this person was actively avoiding supervision from this date. We do backdate it a little bit, but if through my investigation that they're just gone, we just kind of have to pick a date of well they were supposed to report on May 9th, and they didn't show up, so now May 9th starts that 60-day clock for me. And these are kind of some of the problems that we've worked through since AB 236 codified the definition of an absconder. Prior to AB 236, it was left up to the Division and we determined, they moved without telling us, they quit their job without telling us, they're not going to counseling, mom and dad haven't seen him, prior to AB 23 that's when we would submit for a bench warrant or retake warrant, but AB 236 put the 60 day time hack on it, which has resulted in some issues for us.

Mr. Callaway: I believe we have a question.

Justice Cadish: I apologize, let me ask a question and then we'll go to the person in Vegas, and I know Ms. Welborn had her hand up as well.

Do we know how many of those that don't report and maybe start a trigger of this process, how many end up being found and get back on schedule within a 60-day period, that we may avoid having to get a warrant issued and have someone get picked up and put in custody and all of the costs and time associated with that? Do you understand the question?

Aaron Evans: I don't have any exact numbers for you. The nature of supervision has changed over the years with people reporting to us based on their risk level. Some people every three months, some people every other month, some people every month, so it kind of varies. Most of the time, our moderate-risk group of individuals is probably in the middle of the bell curve, it's the greatest level of people, they only report every other month. Some of them are going to choose to abscond from the last time they see us, because we put a sanction on them. We told them you need to come see me every week because of all these positive drug tests, or you need to be on curfew because you keep getting stopped by the police at early hours in the morning.

Those individuals probably choose to avoid supervision from that point on, but we may not know 'til a month at the best-case scenario or I guess maybe a week in the best case scenario when they're supposed to come in for that first sanction of increased reporting. I don't have a specific number on how many people we find within that 60 days, I guess it's anecdotally I don't feel like we're overly successful. Once somebody moves from their last known residence, the investigative efforts get more difficult, the time constraints we have on ever expanding caseloads, and the personnel limits that we have now, it's just check where we're most likely to find them and then hope they do the right thing in the meantime.

Justice Cadish: Thank you. Mr. Callaway you had, I don't know if it was you or someone else in Las Vegas.

Mr. Callaway: Chair, we have a question from Assemblyman Roberts.

Assemblyman Roberts: Thank you, Madam Chair. Just more of a comment. One of my jobs at Metro while I was there, I ran a fugitive task force and dealt with a lot of this on a regular basis, to echo Mr. Callaway's comments, is even though we would put a warrant, we'd file for, even if they had a local warrant, we'd file for federal warrant as soon as we knew that they had fled the jurisdiction and so that we could leverage federal resources. I can't remember who commented up North, sometimes you wouldn't have to go through a whole checklist, it would be a reasonable person, you could reach a threshold to say, okay, this person has obtained an apartment in Florida, so we pretty much know that they're not here in Nevada. I think that kind of leniency in the language would be good as well. But also, to Mr. Callaway's point, is that it shouldn't be absolute that they have to go through the entire list, because even though you exhaust all means, I would do a UFAP, a federal warrant and we would spend two years looking for this person and eventually we'd find him through some electronic means or through some type of investigation. I really like the flexibility that this gives to Parole and Probation, I think the times are reasonable, and I think it's, I support it as written, well with a couple a couple of caveats that were mentioned, but I support it.

Justice Cadish: Thank you, Assemblyman. Ms. Welborn.

Ms. Welborn: Thank you, Chair. In thinking through different scenarios, I'm listening to what you're saying, so you've said that we have the lower-level risk person, somebody with a less of a risk; they need to check in with you once a month, every three months, whatever that might be, so longer durations. First, I want to talk through that for a minute. You have someone, they missed a check in with one of your officers and then under this new, the way that this is being rewritten, we're getting rid of 60 days, that individual, we know they're low risk to the community, maybe they're experiencing a, let's say a relapse or a financial issue, so at that point you would know that they haven't checked in, what would trigger the determination of you wanting to determine whether or not this person has absconded?

Aaron Evans: Thank you, if it's a low-risk person, if we find them, we're going to apply graduated sanctions, especially in the case of a relapse. We're not looking to put somebody in jail, prison for the first time that

they relapse. It's the actively avoiding supervision that makes them the absconder. If I don't have the opportunity to apply sanctions, then I have to deem you an absconder. If you're not willing to have the back and forth with being a part of supervision, so if it's an every three months reporting and you miss your appointment, that's going to move you up on the priority list, so our officers are going to go out and try to find you. I mean obviously first they're going to make phone calls and send emails to figure out what's going on, hey you had an appointment today, where you at and if they missed it because they just didn't put it on their calendar or had something else going on, fine, if it needs a sanction because they willfully decided not to come, because they maybe they knew they were going to fail a drug test, so they say, oh, I didn't come in because I relapsed; we're going to apply sanctions. We don't use the, if what you're asking, because the reporting period is you know 90 days that they report but then the absconding is 60 days, we're not going to say, well because you reported it three months out, I don't know, maybe I didn't understand the question.

Ms. Welborn: I was going to give you opportunity to answer that. This is what I'm envisioning, the three-month person did not check in, you have these attempts and they're a low-level offender, not a high risk to the community so you don't hear from them for this period of 60 days. Let's call it two months, they have to check in every 60 days, that's the conditions of their time with you. But they do check in perhaps at that 60-day period or, Mr. Callaway I believe had given the example that they check in at the 59 day period, I mean there's still within the context of what the arrangements are for their probationary period. Really I think what that does, is it speeds up a time frame for a low-level offender to be revoked from probation where there might be some circumstances that aren't being taken into consideration, maybe a readjustment of their term of supervision or something like that, so that you can maybe engage. We're losing that opportunity to engage in the sanctions process and I think that's the major concern, that if we open this up too broadly, we're just going to start revoking people when there could be a different explanation. I don't know that there are enough explanations for the safeguards of avoiding that because I think that does frustrate the intent of AB 236.

Aaron Evan: For us to call somebody an absconder, we have to be able to, the way I teach our officers is that they're going to be willing to go up and testify in front of the court or Board that that person was actively avoiding supervision. If somebody only reports every 60 days and they missed that first one, I'm going to have to do some legwork to figure out what's going on. If I can't specifically pinpoint the fact that they were actively avoiding supervision from 60 days prior, I can't call them an absconder. I'm still in the graduated sanctions mode of okay, you didn't show up yesterday, yes it was 60 days since I last saw you, but that doesn't necessarily, I mean, if I find them at home, a reasonable person isn't going to say that they're actively avoiding supervision if I find them at the same place that they reported employment the last time I saw him or I find him at the same place they reported to be living when they saw me last. I can't testify that they're actively avoiding supervision when they're living literally where they told me.

Potentially, I guess somebody misses an appointment and we go to the house and they're not living there and but maybe they get word that were around looking for him, and then they call us, they're going to reestablish that connection with us. It was Mr. Hicks that made that point about the contact after 59 days and I don't think that's as frequent as it would sound, that they try to restart that clock by just kind of calling in and trying to touch base because if you don't tell me where you're living I'm still going to think you're actively avoiding supervision. If I haven't seen you in two months and everybody knows I've been looking for you and I ask you where you're living and you're still not willing to provide that information, well I'm not going to necessarily say that phone call resets the clock. If somebody misses an appointment and then I track them down and they're engaged in their own supervision and willing to accept the sanctions that are provided to them, then we're not going to call them an absconder because that's more work for us. It's easier for us when people are in compliance and doing what they're supposed to. I understand I think where you're coming from, but I think when somebody chooses to actively avoid supervision, it's mostly it's all in or all out type of game. They're going to avoid us completely and be gone and if we track him down and find them and sanction them and get them on the right track, we're not going to backdate their absconding to the last day that they reported, because that's just not accurate to when they were actively avoiding supervision.

Justice Cadish: Go ahead.

Ms. Welborn: Thank you, Chair. Holly Welborn, ACLU, thank you. Just to sort of solidify the point, is there a scenario under which a person who is required to check in let's say every two months, would be revoked after two weeks under this proposal, two weeks, one week, some shortened time frame? You find out they don't, they're not living where they said they lived, is that the point at which your Division would start moving to revoke that person?

Aaron Evans: If they report every two months and they miss that 60-day period, and that's when I go start looking for them, depending on the information that we gather, that's going to determine that start date of that 60-day period. Potentially I could foresee that we gather enough information that they moved out March 1st, and they quit their job March 1st, and they haven't been to counseling since March 1st. The phone number is no longer in service, that tells me that they're actively avoiding supervision from March 1st, because they have conditions that tell them they have to report when they're instructed, they have to notify me when they change their address, they have to notify me if they change or gain employment. There's all these factors that the person has to do and if I can pinpoint that they didn't do that and had an opportunity from now, all the way back to March 1st, and they've chosen not to do that, then yes, I may deem them an absconder the first day that they missed that appointment at the 60 day mark. That's not going to be until I do all that legwork to come up to what we would believe a reasonable person would be like, yeah, they had all these opportunities to call the Division, stop by, send a letter, send an email, send a text to their officer, saying that I've moved and here's my new address.

Potentially we could start it, yeah, you missed your appointment today and my afternoon's clear and I'm going to go all around town looking for you and I dig up all this information that you've been gone for three months and I talked to mom, it's like yeah he moved to Colorado, yeah then the rest of my afternoon might be spent writing up that report because there's these things that are on the supervised individual to let us know when these things change.

Ms. Welborn: Thank you. We'll keep talking about this. I see the challenges, I think clear and convincing evidence language is persuasive but keeping within this proposal that's here and I think exhaustion of those attempts is incredibly important, otherwise we are heading backwards. We are frustrating that intent of what it is that we are seeking to achieve in my opinion. Thank you very much for answering my questions.

Justice Cadish: Thank you, yes, down front go ahead.

Chris DiRicco: I think we might be heading down a little bit of a wrong road here, so to speak. If you look at both NRS 1768.510, which is the probation statute regarding technical violations of supervision as well as NRS 213.1519, which details the technical violations for parole supervision. It lists in here and what it lists, if you go back to slide number 16 in Ms. Gonzalez's handout. It indicates that a technical violation right on here, it means any alleged violation of conditions of probation or parole that does not constitute absconding and is not the commission of these new crimes as enumerated here. When you look into these same statutes, it refers to the definition of absconding and refers you to the 176A definition and so for definition, when you click on 176A, and it means that that person needs to have been essentially in the wind or actively avoiding supervision for a term of 60 days, well with that I would throw out there, that's a determination for the court or the Parole Board to determine that. It's a definition within that statute, does this meet a technical violation of supervision or does it meet something more along the lines much more serious which would be in line with these other offenses that are enumerated here such as a new felony, a domestic violence, or something of that case. When we get here, I don't see any reason why the Division, if they had a serious offender, could not on day three, as Mr. Evans has alluded to here, we have an individual who's moved out of their residence, they've left their employer, they verified this, they've talked to parents, just say, and they moved out of state. We have all these factors that we can point to here. They know this person is gone, okay, there's no reason that they couldn't request, they're alleging that this person has violated the conditions of their supervision to either the court or the Parole Board, but that determination is whether that

person is going to be an absconder or not will determine upon what the finding is. In this instance that we've been using if for this individual a warrant was issued by the court or the Parole Board and it was signed at day 20, and the individual got picked up at day 35, that individual does not meet the definition of an absconder, and as such that would equate to a technical violation of supervision. However, if that same scenario, on day three they find out the person's gone, there in the wind, same scenario and this individual does not get arrested on this warrant for six months, now the finding might likely be by either the court or the Parole Board that they meet that definition of absconder just because now they have surpassed that 60 days threshold, as the definition in statute determines now. I think one of the things in here would be, I know that we're looking at potentially redefining absconding and both as stated in this statute, for the definition in these revocation or these technical violations statutes it terms what absconding is, so it's really not a determination for Parole and Probation, they're alleging, they allege violations but they are not determining whether or not they're an absconder or not.

Justice Cadish: Thank you. Was there any, I don't know that it warranted any further response from our speakers. Is there anyone else who wanted to speak? Okay, I guess continue with your presentation Director.

Director Gonzalez: Thank you, Chair. That brings us to recommendation number four which really is clean up, I promise. What happened during the 2021 Legislative Session, was AB 393 was a cleanup bill of AB 236, and set to separate out the parole and probation statutes. We revised some of our statutes and so what happened was, this change was made to the probation section at one point during session, in this section, and so our recommendation would include just making a parallel change to the parole section because that bill was separating out, making sure everything was very clear about what applied to probation and what applied to parole and so when the change was made on slide 22, it just wasn't made in its sister section for the parole section so that's all this would be, would just be aligning those sections so they're consistent with the change that was made from AB 393.

Moving on to our recommendations related to our statutes for this Commission and for our Department, the intent of these changes is to continue to enhance the collection and aggregation of our criminal justice data. The first change is related to the qualifications of the Director. What exists in statute right now, requires my position to be a licensed attorney in Nevada. That's the only qualification listed and what I presented at the February meeting was, when it comes to sustainability of this Department and of the Commission, which is supposed to be data-driven, data-informed when developing policy, I just have concerns about what the longevity is of somebody after me. I have no intention of going anywhere soon, but we know things can happen. I care very much about the direction of the Department, the direction of the Commission, we're on a great trajectory that really does make us data-driven and I think making sure that you have someone who's running the Department, who either has the experience or knows how to manage people who have that experience, is important.

One of the things we talked about was just removing that requirement generally. I presented a number of qualifications to codify. What this Commission previously approved was actually just removing the attorney recommendation, but of course I wanted to bring this back to the Commission as we finalize the recommendations in case there were additional changes we wanted to make. But you can see here as far as what the intent is behind this and what it would do, here's the proposed language as we have right now and so what it would be is emphasizing in subsection two, that there would be qualified persons recommended by the Sentencing Commission. That's how it's set up right now. What this Commission does right now is it solicits applications and conducts the interview process and then makes recommendations to the Governor who then appoints the position. By removing this requirement for it to be an attorney and then just saying it's qualified, at the chance that this Commission would have to then recruit for a new Director what this Commission would do is meet and decide, here are the factors we want to put in the job announcement. At that time, the Commission can decide this is what our Department needs right now. You could put in that you want the successor, or any other successor to be an attorney or any other

qualifications that the Commission would deem appropriate or needed at the time of the Director. So that's what this recommendation is just to take out that requirement and so it doesn't limit this Commission but empowers it to really recommend a person that's going to do the thing that you need them to do.

The last recommendation related to making changes to the Commission and to the Department is about revising the membership of the Sentencing Commission. I appreciate those that I was able to meet with and I know we didn't give you much time in advance of this meeting so hopefully next time I can give you more time, but again those that I was able to talk to already got some feedback about this and had ongoing conversations, so I anticipate we might have additional ideas and changes to make to this already proposal to really think about what does this membership need to look like? I think we're on a great track, I really have appreciated the experience that everyone's brought. I think we have a lot of equanimity in this Commission when it comes to experience and exploring issues and so anything that I'm recommending is making sure we maintain that for, again, the sustainability of this Commission. I know some of the conversations I've had with some of you have addressed that as well as some just make sure we just keep things balanced and I think the representatives that we have here from all areas the criminal justice system already represent that, so this would just continue to flush that out.

Slide 29, is my conceptual proposal for these ideas. The first would be to add a representative from the Central Repository and the intent here would be to provide that criminal justice data expertise on the Commission. As we heard earlier from RCCD, all that they do, that was where that recommendation came from. One of the requests that came from this Commission from the last meeting was hearing from them which we heard and so I hope that that better informs whether this Commission has an appetite to add a representative from RCCD. Their data collection and aggregation is obviously not the exact same data that we're collecting, but they're collecting from the same places and so they absolutely, in my conversations with them, we've talked about the challenges that come with that, and my partnership with them is very much appreciated and so that's where this idea came from. It also came from the ACAJ, which is where this Commission was born out of, previously had a representative from RCCD and so now that ACAJ is no longer in existence and as I've proposed I think this Commission really does take the place of making recommendations for criminal justice and analyzing policy. I think it makes sense to you bring back some of that that ACAJ had and round up our expertise and our membership.

The next recommendation came out of just some reflection. It was not presented at the meeting previously, but just as I was looking at our statutes and also the practicalities of what it takes to get individuals appointed and replacements in place for our Commission, was requiring the Chief of Parole and Probation to be a member of the Commission and to clarify this, what our statute says right now, is that the Director of DOC is by statute, a member of the Commission. What my intent is here was to align all these agencies, so we could do something similar with the statute related to the Parole Board. The Parole Board statute or the Parole Board appointment is similar to the Parole and Probation, where it just says a representative should be appointed, but what we could do is just make these all be the same, align all of these so they're consistent as far as our law enforcement-type agencies that our members on the Commission. That just by the virtue of their position, they could be a member of this Commission. That would mean the Chief of Parole and Probation. We would have an additional I think it's a sub section or paragraph to have the Chairman of the Parole Board rather than just a representative and that would align with what we have from DOC; the Director by virtue of that position is just a member of this Commission.

The last recommendation came out of our discussion at the February meeting and was to revise the appointing statute related to our representative from DETR and so rather than requiring the Director by virtue of that position to be a member of this Commission, the Director could appoint a representative. The proposed language we have is on slide 30, it would look kind of like this, was having again the Chief by virtue of the position be a member of the Commission and then having the representative rather than the Director from DETR, we would also have an additional paragraph here that would say the Chairman revised that Chairman of the Parole Board by virtue of the position would be a member of the Commission and then

also a member from Central Repository be appointed by the Director of the Department of Public Safety. I guess I'm going to leave it to the members of the Commission to I guess put your recommendations, I don't want to put those out there in case you changed your mind about any ideas you had about other proposals for membership. But along with other questions you have about the rest of the recommendations I presented, that brings me to the end of these recommendations and so this is what they were numbered to look like. I can turn over to the Chair to take questions and discussion about these last few and then decide where we want to go next.

Justice Cadish: Thank you. So again, this is Justice Cadish, I keep forgetting to say that when I'm speaking. First here in Carson City, is there anyone who has comments or questions at this time. Yeah, Mr. Hicks.

Mr. Hicks: Thank you, Chair. Washoe County District Attorney, Chris Hicks. Director Gonzalez, if you could just help me understand for the purposes of today, are you hoping to get a vote from the entire Commission on all of these items which will be a part of our BDR.

Director Gonzalez: Yes. What we need today is approval of whatever these recommendations, revised, edited, whatever this Commission wants to move forward. We can leave things behind, but we do need, in order to comply the deadline, if the Commission I guess, if the Commission wants to include something in a BDR we need something today. What I need is an approval of the conceptual changes, so depending on what we want to discuss and the Commission wants to put out, I would just need something that I could put in bullet points and I'll read them back and forth until we agree that this is what this conceptual would be. I would need the conceptual idea approved based on these, you can bring up new things that if the Commission approves we can get those included as well and so we'll hash out the words of the conceptual and then what I'll do from there is then circulate language and the conceptual to make sure this is consistent with what was approved. In order to include something in the BDR, I do need something today, whatever doesn't get approved today, we won't be able to include in the BDR.

Mr. Hicks: Okay. So now I definitely understand the time crunch, because there was a lot of discussion already and just you going through that I'm a little worried about the Commission being able to get this down into workable format and as I say that I have an addition I want to suggest.

Director Gonzalez: If I may, if I could add one more thing too actually, so here's what I will say too, as I mentioned at one point in my presentation, that I'm really excited about this Commission and where we're going and developing ideas and we've seen in the past that stuff gets rushed and we don't want that, so we, if the Commission, I'm not on the Commission, I'm sorry I keep saying we, if the Commission approves ideas but there's other ideas that the Commission says we need to vet this, we need more time, depending on how much we can get done at the August meeting as well, there could be an opportunity for the Commission and then through me, I can start reaching out to legislators to see if they want to use some of these ideas for BDR that would be approved by the Commission. For our BDR, we need to have something by June 1st, but I don't want to foreclose anything that we see opportunities to continue to vet and so I want to empower this Commission to say we keep figuring out ideas and then we're going to keep working together and look for those opportunities during session that I still think we could get something through even if it's not ready today.

Mr. Hicks: Okay, thank you for that explanation and so ultimately, you're going to be looking for motions from members of the Commission to adopt certain portions of what you've gone through today. Okay, I'm going to go through my first recommendation, and I don't think it's that difficult, but it's in regards to revision to membership. If you look at the membership of all of us, there is a critical component in the criminal justice system, of course you have law enforcement doing the arrests and then you have that middle stage where it's prosecutors and criminal defense attorneys working together or sometimes working apart to get a result that ends up whether its diversion, probation, sentencing a very critical part of the system is prosecutors and

defense attorneys, I think we'd all agree. In the membership there is the Washoe County Public Defender, the Clark County Public Defender and a private attorney who does criminal defense work. As far as prosecutors go there is one appointed member of the District Attorney's Association, that's me. My recommendation is that we allow for two appointments from the Prosecutor's Association, because I do believe we have a great deal to offer and I think a singular voice versus those three voices is not completely balanced. There certainly may be an argument that the Attorney General's office has an appointee and that might balance the imbalance I'm speaking of, but the one point I would make in regards to that, with all due respect to the Attorney General's Office, in terms of our prison population, our probation population, our parolee population, our specialty court population, the Attorney General's Office frankly has very little to do with that. Their statutory jurisdiction just really doesn't apply to many crimes in the state of Nevada. Although I certainly value them on the Commission, I think it would be very valuable for this Commission to have another District Attorney or representative from the District Attorney's Office and I would recommend to the District Attorneys Association that it be someone from a smaller jurisdiction maybe a rural jurisdiction because I do think that that's tremendously valuable for input to this Commission because sometimes we might not be thinking about the impacts of some of these changes in Elko County or Douglas County. So that is my ask, that we add, that it be two District Attorney representatives appointed by the Nevada District Attorneys Association.

My other recommendation and this may Director Gonzalez fall within the latter example you gave of we talk about this in August maybe but I want to bring it up because from the first day of this Commission, I was one of the members back then I know many of the people still here today were. Something this Commission was focused on was truth and sentencing in Nevada without a doubt and I just want to draw everybody's attention to a couple comments for those of us who weren't members back then. It was former Chairwoman of the Board of Parole Commissioners, Connie Bisbee, was the vice chair back then and the very first day Chair Justice Hardesty brought up the issue of truth and sentencing in Nevada and frankly in his words there is no truth in sentencing in Nevada. She made a joke, and she says I hear this all the time and that is, in Nevada, don't do the crime if you can't do half the time and we all laughed about it and I still do but it's a sad state of our system in Nevada and I think that this Commission should very seriously look at addressing the truth in sentencing shortcomings in Nevada

Before I give you my quick suggestion, I just want to read from NRS 176.0131, which is the chapter of the Nevada revised statute that governs sentencing created this Commission and it says, The Legislature hereby finds, and declares to be the public policy of this State, is:

1. Sentencing and corrections policies should embody fairness, consistency, proportionality, and opportunity.
2. The laws of this State should convey a clear and purposeful rationale regarding sentencing and corrections. The statutes governing criminal justice should articulate the purpose of sentencing, and related policies and practices should be logical, understandable, and transparent to the stakeholders and the public.

The keywords to me in that statute that would address the lack of truth in sentencing is consistency, logical, understandable, and transparent to stakeholders and the public. I'm going to take us back to the example you gave us, I believe it was in agenda item three, but the credits that you spoke about, and I wanted to just share this with the Commission, because I think everybody would agree with me that is very important in the state of Nevada that our sentencing laws are consistent and are reliable, I don't think anybody would disagree with that. To use your example of Mr. Rubble in your sentencing credits, so the maximum term that Mr. Rubble got on this category C, nonviolent offense, was three years in prison that's 36 months and to the benefit of people who aren't usually in our courtrooms in the State of Nevada, what happens every day is you might hear a judge say something to this effect, Mr. Rubble, I sentence you to 36 months in prison with parole eligibility after a minimum of 12 months have been served. Anybody who's in the courtroom, whether it be Mr. Rubble, a victim, the community, is going to hear that and they're going to think, okay, he's got sentenced to prison for three years, but if he programs, if he does what we would hope inmates in our

system would do, he may get out in 12 months and we all hope for that. But what the unfortunate thing is in Nevada in 2007 the Legislature made, what again Chair Justice Hardesty framed back in 2018, a business decision to change the good time credits in the State of Nevada and that was because we were going into a recession and we had received projections from a man named Doctor Austin, who suggested that the prison population in the State of Nevada, was going to be 22,000 inmates by 2020. Well we know that's not true, in fact it's less than half of that here in 2022, but the Legislature with that information made a business decision to increase good time credits which I have no opposition to, what was done with that part of AB 510. But the destructive part to truth in sentencing in Nevada is they also made the determination that credits would go off the minimum sentence delivered. So in Mr. Rubble's, case when the court says a minimum of 12 months in custody and everybody thinks, okay, well if he does well maybe he gets out at 12 months. That's just not true and your sentencing credits guidelines certainly shows that. I know I don't need to read this to everybody but, the definition of minimum is, the least or smallest amount or quantity possible, attainable, or required. The minimum is the minimum if you go by definition. Well in Mr. Rubble's case, and due to AB 510, he could be sentenced as in on your sheet on January 1st, of 2020, to 12 months minimum, 36 months maximum and because of what was changed by AB 510, 15 years ago, he would be eligible for parole after serving just five months, just 42 percent of his sentence. I just don't see how anybody on this Commission could disagree with the notion that there needs to be consistency and reliability in our sentencing, and I can say from my office's perspective, we regularly get phone calls from victims who are in the VINE system who get notified that someone's up for parole and they're in shock because they said, well the judge sentenced them to 12-36 months, how can they be contacting me after 5-months? We have to say, well, the minimum is not the minimum in Nevada and truth in sentencing is not the truth in Nevada. I think this Commission has an opportunity to really again to have these important discussions we're having about policy and recommendations but one of those is, we look for consistency in our system. We are no longer in a State where we have an expert telling us our prison population is going to be 22,000 and we have to build three prisons; it just not there. In fact, our prison population today is 267 less inmates than it was today 20 years ago, so it is just not an issue and I think it sends the message that we want our sentencing laws to be honest and truthful and reliable. All that I say, I said truth in sentencing, and I think everybody would go, oh my gosh we could spend two years trying to remedy that, but the truth be told, it is not a difficult fix. It is a simple fix to at least begin the process and that is repealing what was done in 2007, in AB 510. That is my recommendation that we should also add to our BDR, and I will give you the precise statute, Director Gonzalez, and it is NRS 209.4465. If the recommendation from this Commission in its BDR, that we want to have truth in sentencing in Nevada, all we would have to do is recommend the redaction of Section 8 and Section 9. That was what was added in 2007, and that would eliminate the ability for people to only have to serve 42 percent of the least quantity possible attainable or required, the minimum. Those are my two recommendations, I'm happy to make motions when you're ready for that and thank you all for your time.

Justice Cadish: Thank you, Mr. Hicks. Is there anyone else? Yes, go ahead Ms. Bays.

Ms. Bays: We're commenting on the recommendations for the position in the Sentencing, right?

Director Gonzalez: Yes, questions or comments about what I just presented or whatever else comes up, yes.

Ms. Bays: Okay, then I had a recommendation as to the qualifications. Rather than to remove the requirement for it to be an attorney, to add to that, to give an option to someone with an advanced degree, Masters level education and then you could always add in there something to the effect of an equivalent combination like you do in a lot of job specs. I think the reason for that just having worked with you and having some experience now on this Commission and what you direct, what you have to analyze, that that does have to be a pretty high-level of understanding and depth in the subject matter. I would say that that would be something that we would want to look at to keep that at a high level of expertise and ability.

Justice Cadish: Thank you. Ms. Welborn, was that a hand?

Ms. Welborn: Yeah, it's a hand, Holly Welborn, ACLU. I think it can wait until we make a motion. I will hold on. Thank you.

Justice Cadish: Ms. Cafferata.

Elisa Cafferata: Just on the point of the qualifications for the Executive Director, usually these qualifications come in two sets, one is required qualifications and one is highly recommended qualifications and given the challenge every State agency is facing in hiring people, and as a law school drop-out myself, I would say maybe attorney is in the highly desired qualification and you want a high level person in this position, but you also at least the State of Nevada, we want as much latitude as we can get and hopefully Ms. Gonzalez will be with us for a long time. We're not looking to replace her, but that would be my recommendation on that one.

Justice Cadish: Thank you. Ms. Koch.

Ms. Koch: For the Division, I would just like to leave it the one member who is a representative of the Division and appointed by the Chief.

Mr. Callaway: Chair, we have a question from Mr. Hoffman at your leisure.

Justice Cadish: Thanks, Ms. Koch is saying, rather than requiring it to be the Chief of the Division, it will allow the Chief to designate someone else? Okay, thank you, then go ahead Mr. Hoffman.

Mr. Hoffman: Thank you both. This is in response to District Attorney Hicks' comments because I was actually thinking along these same lines about there's a lack of balance here. I think the argument he makes, makes a lot of sense about there are three defense attorneys and only one prosecutor and especially the need for rural representation, I totally agree with that. I think if you look at the broader makeup of the Commission, by my count 22 people, 11 are what you might call neutral figures so judges, legislators, Ms. Cafferata, seven are law enforcement of some kind, there are two police, two prosecutors, counting the Attorney General as a prosecutor, NDOC, and P&P. Then on the other side, if you will, there are three defense attorneys and ACLU. For my perspective, if you just look at defense attorneys versus prosecutors, its imbalanced. If you look at law enforcement versus defense attorneys, its unbalanced in the other direction. I am sort of leery of making that imbalance even worse, adding another prosecutor, adding the Central Repository, who after all are a branch of law enforcement. I recognize the value in having those perspectives, I would suggest that if we were going to add those kind of members, we should also look at maybe adding a formerly incarcerated person or a representative of an organization that works with the families of incarcerated people, because I think one of the great things about the Commission is it's balanced very finely and I think we want to be careful about disturbing that balance in ways that were perhaps not what the Legislature intended. Thank you.

Justice Cadish: Thank you. Any other comments or discussion? I guess let me see what your thoughts are now, because we are now at 12:30. We could either now start taking up motions or we can go ahead and take maybe a half hour lunch break and come back with motions, maybe that would be better if we get our thoughts together about how we intend to propose it, but it's my first day with the Commission so, Ms. Cafferata.

Ms. Cafferata: I would just say, one of the things we could think about and I'm probably leaning towards taking a break and give us a chance to absorb, but one of the things we could think about is, the Governor's office did request that we bring these conceptual BDR's to them but certainly they understand that for most agencies they're not fully baked. One of the options we might have is go forward with a conceptual proposal and make a note that there's a minority report that's coming with it so that we don't have to go forward representing that we all agree on all of these. There's a way to go forward and indicate that some of them are, may or may not make it to the finish line and some of them we're all pretty much in agreement on, so just a thought moving forward.

Justice Cadish: Thank you. This is Justice Cadish again. I suppose if, obviously I'm not going to go around the room and call on everyone, how about if we go ahead then and break for a half hour, looks like that would be until 1:05 and then we can pick up our meeting and at that point I'll be looking to entertain any motions regarding proposed BDR's at that time. I guess with that, let's go ahead a break.

Justice Cadish: This is Justice Cadish; we're going to go ahead and reconvene. It's about 1:10 or a little after. I do appreciate that everyone took an abbreviated lunch period and came back in so that we can hopefully get our business done that we need to.

We had the discussion about the presentation that was made by Director Gonzalez about possible recommendations for a BDR before we took our break and we talked about how to present our motions at this stage and as to some of the more challenging parts to perhaps frame it as a conceptual proposal with the detailed draft to come later.

Should we entertain maybe separate motions on each of these parts?

Director Gonzalez: I think we could approach it a couple of ways. We could do separate motions one at a time because we have had additional recommendations that have come up. We could also take them one at a time and discuss just, for example, we could take the temporary revocations and discuss just those and see what we settle on as what a proposed idea would be and then we could vote on them all at once. I would say those are two approaches we take.

Justice Cadish: Okay, the first section was on the temporary revocations, that was identified as item number one in the materials that were distributed, and that Director Gonzalez discussed. Would someone be interested in making a motion regarding those recommendations?

Mr. Hicks: Thank you, Chair. This is Chris Hicks.

Justice Cadish: Thank you, Mr. Hicks, you may proceed.

Mr. Hicks: This initial recommendations, particularly number one, the temporary revocations, is a little meatier if you will, as to the others, never-the-less, my motion would be for the Commission to go along with the recommendations as outlined by Director Gonzalez, for proposed revisions to the temporary revocations for Probation and Parole.

Justice Cadish: Thank you. Is there a second?

Mr. DiRicco: This is Chairman DiRicco. I will second that.

Justice Cadish: Thank you, Mr. DiRicco. Let me take any discussion then about the motion. Is there anyone first here in Carson City on the Commission with comment on the motion? Anyone in Las Vegas with discussion? Yes, I see Mr. Hoffman.

Mr. Hoffman: Thank you, Justice. I just want to clarify; these motions are to proceed with the conceptual amendments and then we'll get another whack at this as a Commission, at specific language around it later. Is that a correct understanding?

Justice Cadish: Is that the intention of the motion?

Mr. Hicks: No, the intention of my motion was that the Commission accept the recommendations as to just item number one, which applies to both parolees and probationers as laid out by Director Gonzalez as written.

Justice Cadish: Okay, so we got that clarification. Dr. Lanterman I see your hand up.

Dr. Lanterman: Thank you. If we're going to focus on the language in here, I think that we might need to include language about how the first instances of non-compliance be dealt with in terms of intermediate sanctions prior to moving to the first temporary revocation. Thank you.

Justice Cadish: Thank you. I see a hand up in Las Vegas, go ahead.

Mr. Callaway: Thank you, Chair. This is Chuck Callaway. Just a quick comment regarding number one, I think I made my position pretty clear earlier but, I just have to many concerns over this first recommendation. I believe it expands the graduated sanctions from AB 236, and I believe that it will divert impact from prisons to local jails and so I will be a no on this first recommendation.

Justice Cadish: Thank you, Mr. Callaway. Any other discussion? Yes, is that Mr. Roberts I'm seeing? Assemblyman.

Assemblyman Roberts: Yes Ma'am. Thank you, Madam Chair. When we discussed this in prior hearings or meetings, I'd expressed some interest in getting some data on the impact to local jails, still haven't gotten that and I echo the concerns of Mr. Callaway that I just believe that this is going to be a burden to local jails which here in Clark County, we're overwhelmed. We can't control, we have difficulty with jail space as it is and any addition to that would certainly be a stress on it, so I am leaning in the no category as well.

Justice Cadish: Thank you, Assemblyman. Any other Commissioners that wanted to address questions or comments to the motion made by Mr. Hicks? Okay, I guess that means we're ready for a vote. I think I might want to do a roll call vote on this one, why don't we go ahead and do that.

CHRIS HICKS MOVED TO APPROVE RECOMMENDATION 1, THAT THE COMMISSION ACCEPT THE RECOMMENDATIONS AS TO JUST ITEM NUMBER ONE, WHICH APPLIES TO BOTH PAROLEES AND PROBATIONERS AS LAID OUT BY DIRECTOR GONZALEZ AS WRITTEN.

CHRIS DIRICCO SECONDED THE MOTION

MOTION FAILED

(ROLL CALL VOTE CONDUCTED BY DIRECTOR GONZALEZ.)

Justice Cadish: Okay.

Mr. Arrascada: I'd like to make a motion.

Justice Cadish: Thank you, Mr. Arrascada go ahead.

Mr. Arrascada: Thank you. Regarding proposal one regarding revisions to temporary revocation for parolees and probationers, I move that we adopt the conceptual language as discussed and that a small working group be appointed to develop the proper language for this BDR, in the spirit of the conceptual discussion that's been had.

Justice Cadish: Thank you for that motion, is there a second?

Ms. Welborn: Second, Holly Welborn.

Justice Cadish: Ms. Welborn seconds, with the motion and the second is their discussion regarding that motion? I see Mr. Callaway first.

Mr. Callaway: Thanks Chair, myself and Assemblyman Roberts, I believe, I guess my comment would be, we've been told by Victoria that we have a short time frame to submit, I think she said June 1st, to submit a BDR and having dealt with the Legislature myself quite a bit and to echo what Commissioner Cafferata said earlier, we know that LCB takes legislative intent and drafts the language as they believe it fits that intent and so my concern is saying, okay, we have a conceptual idea here we want to propose as a BDR and then

we are going to create a working group and we're going to come up with language and try to wordsmith this, I don't know how many meetings we have available before June 1st, I don't know how quickly we can put a working group together, but my concern again is that we would be rushing something forward. I think it's my opinion that we should not pursue that avenue and that would be my recommendation, my recommendation would be that we don't.

Justice Cadish: Thank you. Assemblyman Roberts.

Assemblyman Roberts: Thank you, Madam Chair. I just have question on the motion itself, so this would come back, so once the working group comes back, they'll come up with some conceivable language and we will get an opportunity to vote on this again?

Justice Cadish: Mr. Arrascada?

Mr. Arrascada: Yes.

Assemblyman Roberts: Okay, thank you.

Justice Cadish: Is the Commission, I'm not that familiar, are they able to vote on something by email, or would there have to be a convened meeting?

Director Gonzalez: Thank you. We would need to convene a meeting. If I could actually add something real quick, then we could still, they could still, the Commission could still put together language, it wouldn't be ready in time for the deadline because our next meeting would be in August. We could try to schedule a meeting if that was the appetite of the Commission, however based on what I am hearing in the motion, it sounds like it's still worth vetting this idea and exploring it and it could be ready for another opportunity for BDR is what my understanding from the motion if we went forward with it this way.

Justice Cadish: Ms. Welborn.

Ms. Welborn: Forgive me if my Robert's Rules of Order are or if I am messing up but, could we potentially amend the motion to move forward with a conceptual proposal to pass out of this Committee today to be considered by the Nevada Legislature in the 2023 legislative session that would update the temporary revocation statutes and the graduated sanctions statutes to realize the intent of ensuring that the Division of Parole and Probation may proceed with graduated sanctions prior to a revocation within our statute, to allow their ability to do that. Everyone knows the legislative process that no language that's passing out of here today is going to be the final language, it will go through that process, but we can pass through a motion for the Legislative Council Bureau to draft language to realize that intent.

Mr. Arrascada: I'll accept that friendly amendment.

Justice Cadish: Okay, so I think that means we now have the amended motion on the floor for discussion. I should have studied up on Robert's Rules also.

Mr. Arrascada: I'll second the friendly amendment.

Justice Cadish: Thank you. Is there any other discussion then regarding the motion as amended before we put it to a vote? And I'm sorry to do this but I want to make sure we have a clear record then. The concept that we would be approving subject to writing out the details and, I'm sorry Mr. Arrascada to push it back on you, but I want to make sure we have an understanding of what the concept is that we're approving.

Mr. Arrascada: The concept is to provide Parole and Probation with the discretion to utilize, as it was called earlier, dips or other type of non-formal technical violations to, sorry let me think this through, to be able to utilize that as opposed to going right into the revocation process or to the 90 or 180 days.

Justice Cadish: All right, thank you. I just want to make sure at least everyone understands the concept that we're talking about approving. Director? Sorry, Ms. Welborn, as the person who proposed the amendment and seconded the motion, do you agree with that, or do you have anything else to add?

Ms. Welborn: Thank you, Justice Cadish. I do agree with that.

Justice Cadish: Is there any other discussion before we vote on the motion as amended? Assemblyman Roberts?

Assemblyman Roberts: Thank you, Madam Chair. The new motion, it will not come back, and this is the last time that we'll touch this item. Am I correct?

Justice Cadish: Good question. Mr. Arrascada, and/or Ms. Welborn?

Mr. Arrascada: I'll defer to Ms. Welborn.

Ms. Welborn: Yes, we would be voting to move forward with a conceptual proposal to achieve the intent that was laid out by Mr. Arrascada, and that would be a proposal that would move forward in our recommendations for our BDR as a Commission.

Assemblyman Roberts: Thank you for the clarification and also my concerns are still the same, so I'll still be a no.

Justice Cadish: Thank you. Any other.....? Ms. Cafferata.

Ms. Cafferata: The legislative process which is starting now continues through *sine die* so I would imagine that while maybe the motion or the proposal wouldn't come back to us for wordsmithing, what we would be hoping to put together as a Commission is a report with the data that you've asked for with the research and sort of all the background that the Legislature would need to make a decision on this proposal. That would be our opportunity to really craft the narrative, the history, and the data that goes forward.

Justice Cadish: Thank you. Any other comments or questions before we put it to a vote? Okay, you have the clarity you need Madam Director on the motion.

Director Gonzalez: I believe, I just want to make sure, it is what we presented today just in conceptual encompassing a lot of the discussion that we had as well, is that correct?

Ms. Welborn: If I may Madam Chair. Yes, that is correct.

Justice Cadish: All right let's go ahead. Mr. Hicks.

Mr. Hicks: I have a question, just so I am clear, is a vote yes on this, whatever the conceptual ideas that come from this subcommittee are those going to be endorsed as recommendations from the entire Sentencing Commission without us taking a formal vote on it later?

Ms. Welborn: Yes, because we will not have an opportunity to meet again before June 1st. We've done this on Advisory Commission on the Administration of Justice. I think that I am very grateful to Director Gonzalez for providing some conceptual language, but any commission that I have sat on that has recommended legislation or that has had a bill draft opportunity, has never voted on precise language in the manner, I think that in this meeting today, we've all been really hung up on some of this language here, for example, one issue that Mr. Hoffman and myself and Mr. Arrascada and a few other folks we were talking about NRS 213.1519. We were talking about how it seems that we're jumping from 30 days to 90 days, those are all kinks and things that we will have to figure out at a later point but we can all agree that the intent of this proposal is to allow the Division of Parole and Probation to utilize graduated sanctions instead of going automatically to a revocation in certain circumstances and that is what we will recommend in our bill draft and the Legislative Council Bureau will draft on our behalf.

Mr. Hicks: Thank you for the clarification. My dilemma with it is, this is a well-represented Commission that I think will garner a great deal of respect in what we are recommending, absent me being able to see the formal language, I'm not inclined to recommend that something go forward that could be put in front of the Commission or put in front of the Legislature as a representation of the Commission. Thank you.

Justice Cadish: Thank you. Are we ready then to vote, I think we are? All right, go ahead and do a roll call vote on the motion on the floor.

Director Gonzalez: This is the motion to submit the conceptual amendment for temporary revocations without recommended language.

JOHN ARRASCADA MOVED TO APPROVE RECOMMENDATION 1, TO SUBMIT
CONCEPTUAL AMENDMENT FOR TEMPORARY REVOCATIONS WITHOUT
RECOMMENDED LANGUAGE.

HOLLY WELBORN SECONDED THE MOTION

MOTION PASSES

Justice Cadish: Okay, so that passes. That brings us to the, let me just ask if there is a motion regarding any of the other proposals. I don't know if someone might want to group some, I don't know if we have to take each of the others separately, but I'll leave it to the Commission. Would anyone like to make a motion at this time regarding any other BDR proposals? Mr. McCormick.

Mr. McCormick: Thank you, Madam Chair. I would move that we accept recommendations four and five as presented. Sorry, those are the clean-up provisions and also the qualifications of the Director changes.

Justice Cadish: Thank you.

Mr. Hoffman: Second, this is Jim Hoffman.

Justice Cadish: We have a motion by Mr. McCormick and a second by Mr. Hoffman. Is there discussion regarding the motion to approve the recommendations as to number 4, Clean-up and number 5, Qualifications of Director.

Yes, go ahead Doctor.

Dr. Lanterman: Thank you. With respect to qualifications for the Director, I agree that we need the flexibility we previously discussed between requiring and preferred qualifications and that we can include somebody who might not have a JD but might have another advanced degree. However, my concern would be, that if we're going to go the advanced degree route that that person should have a doctorate of some type whether that is PhD or some other form of doctorate instead of a master's degree because the skill sets are different between master's degree holders and PhD holders and typically if you have someone who's operating an agency who has that domain of skill set, you'd want somebody with a PhD at that level. I am absolutely open to having either/or but if we're going to propose language about what's some of the alternatives are, I'd be more comfortable with the alternative advanced degree being a PhD rather than a master's degree. Thank you.

Justice Cadish: Thank you. Is there any other comment? Mr. McCormick.

Mr. McCormick: Thank you, Madam Chair. Just by way of clarification, my intent with accepting the recommendation as is, is to leave that qualification determination to this Commission. I believe that that's appropriate and I don't believe that this Commission's going to create any sort of qualification that's inappropriate for that position, so my thought is to provide this body as much sort of leeway as possible in finding the Executive Director provided Victoria ever leaves which we are not allowing.

Justice Cadish: Okay, any other discussion regarding the motion to approve the proposals as to numbers four and five as part of the Director's presentation. Go ahead Ms. Bays.

Ms. Bays: Would then the proposal be to add language that covers that? Something that says that the Commission can formulate whatever qualifications that it feels is necessary? I don't know if the existing language actually covers that, if you remove attorney.

Mr. McCormick: If I may, in that proposed change this is in my experience sort of the way that is handled in subsection two there of that statute it would be three qualified persons recommended by the Sentencing Commission, we would add qualified there indicating that the Sentencing Commission is the entity that determines those qualifications before sending it to the Governor so that's that authority within the Commission.

Ms. Bays: Thank you.

Justice Cadish: Any other discussion or questions regarding the motion? I am seeing none. Do we need a, we could probably just do it by a voice vote? All those in favor of the motion signify by saying aye. Any opposed? Okay, that passes.

JOHN MCCORMICK MOVED TO APPROVE RECOMMENDATIONS 4. CLEAN-UP & 5. QUALIFICATIONS OF THE DIRECTOR.

JIM HOFFMAN SECONDED THE MOTION

MOTION PASSES UNANIMOUSLY

Justice Cadish: We've now addressed parts one, four and five of the presentation. Any other motions that anybody has in this regard, regarding potential BDR recommendations? Yes, Mr. Callaway.

Mr. Callaway: Thank you, Chair. I believe its recommendation two, the one that would remove the 60-day period of time for Parole and Probation to initiate on absconding, oh I'm sorry, number three. Recommendation number three, I would make a motion that we move that one.

Justice Cadish: Okay, we have the motion. Who seconded?

Assemblyman Roberts: Assemblyman Roberts.

Justice Cadish: Thank you. The motion by Mr. Callaway and the second by Assemblyman Roberts to approve the proposal under item three, absconding. Is there any discussion regarding that motion?

Mr. Hicks: I had a question for Commissioner Callaway. You had made a recommendation earlier when we were discussing this about including reasonable language in sub-two, is that part of your motion?

Mr. Callaway: Thank you, DA Hicks. Yes, I think that that language should be in there however, we've had discussion already on previous motions about the Legislature is going to tweak it when it gets there and there will be further discussion and I haven't had a chance to talk to P&P to see if they believe that the reasonable language is important or not, and they're the ones that are doing these investigations and case on absconding, so I am comfortable at this point moving the recommendation as written and letting it move through the Legislature and having that discussion there.

Mr. Arrascada: I'm sorry, I have a point of clarification, I thought the motion was just for recommendation number two, technical violations.

Justice Cadish: I believe it says to number three, not number two. Is there any other discussion then on the motion as to number three, which proposes to revise the definition of absconding? Not seeing or hearing any, okay with that, all those in favor of the motion as to revising the definition of absconding signify by saying, aye. Any opposed? Okay, why don't we go ahead and do a roll call vote. Thank you.

CHUCK CALLAWAY MOVED TO APPROVE RECOMMENDATION 3. ABSCONDING

TOM ROBERTS SECONDED THE MOTION

MOTION PASSES

(ROLL CALL VOTE CONDUCTED BY DIRECTOR GONZALEZ)

Justice Cadish: We have not yet addressed parts two, six and if there were any others that weren't part of the Director's presentation. Are there any other motions that I can entertain at this time? Mr. Hoffman.

Mr. Hoffman: I'd like to make a motion to adopt the first two pieces of number six, but not the bit among (u), not subsection (u) there, but to adopt the other two as the Commission's recommendation.

Assemblyman Roberts: I'll second the motion, Assemblyman Roberts.

Justice Cadish: Okay, thank you. We've got the motion by Mr. Hoffman, the second by Assemblyman Roberts regarding the first two pieces of item six. I just want to make sure I understand what those are. I want to clarify that the motion is to add a representative from the Central Repository and to require Chief of Parole and Probation and the Chairman of the Parole Board, is that, nope. Just add the Chief of the Parole and Probation?

Mr. Hoffman: I'm sorry Your Honor, I was referring to the proposed language on slide 30. So those first two.

Justice Cadish: Thank you. It would be adding the Chief of the Division of Parole and Probation of the Department of Public Safety, that was revision to sub-part (m) and also adding a member who's a representative of the Department of Employment Training and Rehabilitation, that's a revision to sub-part (t). Is that correct?

Mr. Hoffman: That's correct.

Justice Cadish: Okay, thank you. I was having trouble keeping up when you made that motion. That's the motion that's on the floor and Assemblyman Roberts, that was your understanding as well when you seconded it.

Assemblyman Roberts: Yes Ma'am.

Justice Cadish: Okay great. With that understanding, is there any discussion about that motion that's on the floor?

Mr. Arrascada: Just a comment for potential amendment, I believe that the Chief of the Division of Parole and Probation made a suggestion to it being the Chief of the Division of Parole and Probation or their designee from the Department.

Justice Cadish: That was Mr. Arrascada speaking and, Ms. Koch?

Ms. Koch: Yes, just to keep it as one member who is a representative of the Division and just appointed by the Chief instead of appointed by the Governor.

Justice Cadish: Okay, so is that a proposed amendment, instead of changing this to a member who is a, instead of changing it to the Chief of the Division it would be a member who's a representative appointed by the Chief?

Ms. Koch: Correct.

Justice Cadish: Is there....

Mr. McCormick: If I may Madam Chair, sorry.

Justice Cadish: Please.

Mr. McCormick: I think if we're going to amend the motion to do that, we should also include that in the second one so that the representative of DETR is appointed by the Director there just for consistency.

Mr. Hoffman: I have no problem with either of those amendments. I consider those as friendly amendments.

Assemblyman Roberts: My second stands; I'll still support them.

Justice Cadish: Thank you. Both of those revisions would end up reading that it's a member to be appointed by the Chief of Division of Parole and Probation and a member to be appointed who's a representative to be appointed by Department of Employment, Training and Rehabilitation. With that amendment is there any further discussion on the motion? I see Mr. Callaway.

Mr. Callaway: Thank you, Chair. I'm not trying to throw a wrench in things but I just thinking how these things work themselves out. Maybe an alternative would be to have the Chief or his or her designee that way the Chief could serve if they wished to and if they would rather appoint one of their employees, they could have that option as well. Then you get the best of both worlds.

Justice Cadish: Go ahead Mr. Arrascada.

Mr. Arrascada: I think that takes us back to my original amendment.

Justice Cadish: Okay, sorry, I lost track of where we are on motions and amendment now. I apologize. Ms. Koch.

Ms. Koch: I'm fine with that. Thank you, Mr. Callaway.

Justice Cadish: If I understand then, the proposal at this time is to have each of those two provisions call for the Chief of Division of Parole and Probation or their designee and the Director of the Department of Employment Training and Rehabilitation or their designee, is that the understanding? I see Mr. Arrascada's nodding.

Mr. Arrascada: I think that is correct.

Justice Cadish: And Ms. Koch and are we still good with Mr. Hoffman and Mr. Roberts? Okay.

Mr. Hoffman: Yes, Your Honor.

Justice Cadish: Great, and I see a hand up Dr. Bradley.

Dr. Bradley: Just one question, the intention for the, I know this is not part of the motion, the intention for (u) for the Central Repository, was that for the Director, I think the Director mentions coordinating and collaborating with regard to data, was that the intention of adding that position?

Director Gonzalez: Yes, that's correct.

Dr. Bradley: Okay, thank you.

Justice Cadish: To be clear, that is not part of the current pending motion. The motion didn't include having that?

Mr. Hoffman: That is correct

Justice Cadish: Okay, is there any other discussion about the motion that's pending on the floor? Mr. Hicks.

Mr. Hicks: Thank you. I think it's critical that we include (u). This is a data-driven Sentencing Commission, so I think to leave that out, I don't know why we would. It made total sense to me to have that in there so we can make sure that the appropriate data is being shared across all lines in the criminal justice system. For that reason, I would vote no as it stands. I have no problem with the other things that have been suggested. But I think (u) is critical.

Justice Cadish: Mr. DiRicco.

Mr. DiRicco: Yes, I actually am right along lines with Mr. Hicks here and looking at NRS 176.01327, the duties of the Executive Director and under subsection six, "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." I right now, as the motion stand will likely vote no, because I believe that having a member from the Central Repository would assist the Department of Sentencing Policy greatly in moving forward with this Commission.

Justice Cadish: I don't pretend to be an expert on Robert's Rules, but could someone just propose an amendment to the motion, or could that just be a separate motion after we vote on these two pieces?

Mr. Arrascada: I believe you vote on the motion as it stands.

Justice Cadish: Yeah, okay. I guess what I was just trying to clarify is, whether someone who thinks that that position should be added to the Sentencing Commission necessarily needs to vote no on the motion and it's still not clear, sorry.

Well, I guess let's go ahead and vote on the motion that's on the floor then, which is only as to subsections (m) and (t) as presented in the proposed language with the understanding that it's either the Chief or the Director or their designee for those two positions. I think we better do a roll call vote.

JIM HOFFMAN MOVED TO APPROVE RECOMMENDATIONS 6, SUBSECTION (M), THE CHIEF OF THE DIVISION OF PAROLE AND PROBATION OF THE DEPARTMENT OF PUBLIC SAFETY OR THEIR DESIGNEE FROM THE DEPARTMENT

AND

SUBSECTION (T), THE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT TRAINING AND REHABILITATION OR THEIR DESIGNEE FROM THE DEPARTMENT

TOM ROBERTS SECONDED THE MOTION

MOTION PASSES

(ROLL CALL VOTE CONDUCTED BY DIRECTOR GONZALEZ.)

Justice Cadish: Okay, so we approved those two pieces. Mr. Hicks.

Mr. Hicks: Thank you. I would make one final motion on that same item number six and that is, that this language be added to NRS 176.0133, which is the members and that it would read one member who is a district attorney in a county with the population of less than 100,000, appointed by the governing body of the Nevada District Attorney's Association.

Justice Cadish: Thank you.

Mr. Callaway: I'll second that motion.

Justice Cadish: Who was that? Sorry.

Mr. Callaway: Chuck Callaway.

Justice Cadish: Thank you. I'm sorry, Mr. Hicks can you repeat the description again?

Mr. Hicks: Certainly, that another member be added which would read as follows: One member who is a district attorney in a county with the population of less than 100,000, appointed by the governing body of the Nevada District Attorney's Association.

Justice Cadish: Thank you. Now we have the motion by Mr. Hicks, seconded by Mr. Callaway on the floor, is there discussion regarding that motion?

Mr. Arrascada: I'd like to make a friendly amendment.

Justice Cadish: I'm sorry, who is that speaking?

Mr. Arrascada: Mr. Arrascada.

Justice Cadish: Sorry.

Mr. Arrascada: I would like to make a friendly amendment that it include one member from a district attorney's office and one public defender from a county of less than 100,000.

Ms. Murray: This is Julia Murray. I would second that.

Mr. Hicks: I appreciate the friendly amendment, I don't accept it because as a matter of discussion, as I laid out, right now it's effectively three public defenders and one district attorney. And to Mr. Hoffman's point earlier, there is law enforcement of course on this Commission, but we have very different roles in the criminal justice system. I think that there's no more evidence of that today than my very first motion was in fact voted against by all our law enforcement partners. It does drive home the point, that prosecutors, we have a different role, we seek justice; it has nothing to do with arresting people on the streets. It has nothing to do with managing a jail. It has nothing to do with managing a prison. For the purposes of this Commission, I think it is critical that we do have a rural representation of a district attorney's office. As we stand right now, we do have Clark County Public Defender, Washoe County Public Defender, and a private criminal defense attorney. That's my discussion point. Thank you.

Justice Cadish: All right, and so Mr. Callaway

Mr. Callaway: Thank you, Chair. To the point just made by DA Hicks, I think that when you look at the law enforcement makeup of this Commission, typically we've had one member, myself, which represents the urban Las Vegas Metropolitan Police Department jurisdictions and then we've had a representative from the Nevada Sheriffs and Chiefs, which represents the rural interests of law enforcement and so if we were to take the second motion that was made to add a public defender from a rural area, I could accept that conceptually if we then removed one of the urban public defenders to balance that out. I guess my motion to the motion would be, that we add that rural public defender, add the rural DA, and remove one of the urban public defenders.

Justice Cadish: I need to go back to, is it Mr. Arrascada that first I think, your first proposal?

Mr. Arrascada: Yes, I do not accept the amendment to my amendment made by Mr. Callaway. I find it ironic that we're not counting noses, but noses are getting counted when it comes to the public defenders. To sit here and say that this isn't about counting noses and then to do it, I think shows true colors, but leave it at that and I do not accept the amendment to my amendment by Mr. Callaway.

Justice Cadish: I believe now we're back with the original motion then as seconded, I don't believe that any of the amendments were accepted. Mr. Hoffman.

Mr. Hoffman: I just wanted to say in addition to the points that people have been making, I think there's some value in keeping the Commission at a manageable size and that was part of why I proposed the motion that I just did to change the descriptions but to not add somebody. I think maybe that could be a compromised position as we keep it the way it is. You know, nobody is getting worried that there are more

public defenders now or there are more prosecutors now, that's personally how I am going to be voting. I don't know if anybody else finds that a compelling line of argument.

Justice Cadish: All right. Is there any other discussion, comments, questions regarding the motion on the floor which is to add a member District Attorney from a county with a population of under 100,000 to be selected by the DA's Association?

Any other discussion on the motion? Ms. Cafferata.

Ms. Cafferata: I just wanted to agree with Mr. Hoffman that that is the compelling reason I will be voting no, is managing the size of the Commission.

Justice Cadish: Any other discussion, comment, question? I don't see any other hands.

Why don't we go ahead and do a roll call vote on that?

CHRIS HICKS MOVED TO APPROVE AN ADDITION TO RECOMMENDATION 6 ADDING ONE MEMBER WHO IS A DISTRICT ATTORNEY IN A COUNTY WITH THE POPULATION OF LESS THAN 100,000, APPOINTED BY THE GOVERNING BODY OF THE NEVADA DISTRICT ATTORNEY'S ASSOCIATION.

CHUCK CALLAWAY SECONDED THE MOTION

MOTION FAILS

(ROLL CALL VOTE CONDUCTED BY DIRECTOR GONZALEZ.)

Justice Cadish: Okay, do we have any other motions regarding BDR proposals? We still haven't addressed at all item number two. I think all the others we have at least addressed in some form or fashion. I would entertain any other motion. Ms. Koch:

Ms. Koch: This is Natasha Koch. I would like to motion to approve number two, technical violations, as recommended.

Justice Cadish: Thank you. Is there a second?

Mr. DiRicco: This is Chairman DiRicco, I'll second that.

Justice Cadish: Okay. We have the motion by Ms. Koch, seconded by Mr. DiRicco to approve the proposal on item two, the definition of technical violations as presented by Director Gonzalez. With that, is there discussion regarding that motion on number two? Not seeing any hands. All those in favor, signify by saying aye. All those opposed, say nay.

With apologies, let's go ahead and do a roll call vote.

NATASHA KOCH MOVED TO APPROVE RECOMMENDATION 2 AS PRESENTED BY DIRECTOR GONZALEZ, ADD PROPOSED LANGUAGE TO REVISE THE DEFINITION OF TECHNICAL VIOLATION

CHRIS DIRICCO SECONDED THE MOTION

MOTION PASSES

(ROLL CALL VOTE CONDUCTED BY DIRECTOR. GONZALEZ.)

Justice Cadish: All right. I think we have now addressed the six pieces that were presented. Are there any other motions that we need to address? We're still under agenda item six, which is regarding any BDR proposals. Sorry, Ms. Koch, didn't see you at the end.

Ms. Koch: I would like to propose a BDR for NRS 213.1078, which is in regards to the risk assessment and in this particular statute, it is specified that the risk level is determined by the Nevada Risk Assessment System and we would like to propose an amendment to that to state: determined by the appropriate Risk Assessment Tool, in case we ever do, for some reason go away from the Nevada Risk Assessment System and also, for the fact that for sex offenders, they are assessed by a completely different tool, so the way this is written, we have to do the Nevada Risk Assessment no matter what. It's kind of a waste of time because we don't use that Risk Assessment level on them; we use the other tool for sex offender.

Justice Cadish: All right, so we have that motion stated by Chief Koch, is there a second to her motion?

Dr. Lanterman: Yes, Jennifer Lanterman seconds.

Justice Cadish: Thank you. With the motion and the second, is there any discussion regarding that motion? Ms. Welborn.

Ms. Welborn: Holly Welborn, ACLU. If this motion moves forward, I will certainly vote for it, but I do want to, if I may ask the Chief a question. Do you have bill drafts through the Executive Branch for these types of proposals and were you not able to get that proposal through that avenue?

Ms. Koch: I had spoke with Director Gonzalez and we had agreed that I would bring it up here.

Ms. Welborn: Thank you so much.

Justice Cadish: Mr. DiRicco, did you want to speak?

Mr. DiRicco: Yes, real quick, thanks. If I may also ask a question, I believe in the last session, there was quite a bit of language regarding this same terminology and is this just a clean-up; it's one that was missed from the last session that didn't get in there where you changed to that language?

Ms. Koch: Yes.

Mr. DiRicco: Thank you.

Justice Cadish: Thanks for the clarification. Are there any other comments or questions regarding Chief Koch's motion? Not seeing any.

Let's just do a roll call vote to be safe.

NATASHA KOCH MOVED TO APPROVE A BDR FOR NRS 213.1078, REGARDING THE RISK ASSESSMENT AND IN THIS PARTICULAR STATUE, IT IS SPECIFIED THAT THE RISK LEVEL IS DETERMINED BY THE NEVADA RISK ASSESSMENT SYSTEM AND WOULD LIKE TO PROPOSE AN AMENDMENT TO THAT TO STATE: DETERMINED BY THE APPROPRIATE RISK ASSESSMENT TOOL

JENNIFER LANTERMAN SECONDED THE MOTION

MOTION PASSES UNANIMOUSLY

(ROLL CALL VOTE CONDUCTED BY DIRECTOR GONZALEZ.)

Justice Cadish: Was that unanimous?

Director Gonzalez: It was.

Justice Cadish: Well thank you Chief for getting a unanimous vote.

Mr. McCormick: I was going to propose a motion that we memorialize that unanimous vote in statute.

Justice Cadish: That was done McCormick, for the record. Okay, with that, are there any other proposals regarding agenda item number six? Mr. Hicks.

Mr. Hicks: Thank you. In Nevada, don't do the crime if you can't do half the time. That should not be acceptable to anybody on this Commission. It is dishonest to our sentencing laws; it is inconsistent with our sentencing policy. The current lack of truth of sentencing in Nevada needs to be remedied, it was changed by this Legislature in 2007, purely out of a recession. I think that the time has come for this Commission to take a stand that we believe our sentencing laws should be true.

My motion will not in any way, shape, or form, affect good time credits, the expansion of good time credits that were done by the Legislature in 2007, all it will do is eliminate taking good time credits off a minimum sentence. The minimum sentence should be precisely what that is, the minimum and it should incentivize an inmate to program and seek to get parole at the earliest possibility. But right now, in Nevada, they're serving at times as little as 42 percent of the minimum sentence.

My motion is that this Commission within its BDR, take a step towards truth in sentencing in Nevada and I move that we recommend to redact or eliminate subsection eight and nine of the NRS 209.4465. Happy to answer any questions.

Justice Cadish: Can I have the NRS site again?

Mr. Hicks: 209.4465.

Justice Cadish: Thank you, so that's the motion by Mr. Hicks is there a second for the motion?

Ms. Bays: I second that.

Justice Cadish: Thank you, Ms. Bays. Is there any discussion then? Ms. Welborn:

Ms. Welborn: Holly Welborn, ACLU of Nevada. I am going to be a no on this motion. We can sit here and say that this won't have an impact on sentences, on prison overcrowding, etcetera, but the Legislature in their wisdom has moved away from mass incarceration policies that drive up the prison population, that costs the State millions upon billions of dollars in taxpayer funds. We have looked at sentencing structures and have found incredible discrepancies in the way that we sentence people to prison. We've worked on these policies for a very long time and to shock the system and over repeal this and to make that recommendation through this Commission, I don't think is properly vetted and I will be no. Thank you.

Justice Cadish: Thanks Ms. Welborn. Are there any other comments? Mr. McCormick.

Mr. McCormick: Thank you, Madam Chair. For good or for ill, this was public policy decision that the Legislature made in 2007, and I think that given the history of truth in sentencing in the State and the fact that it was implemented in 1995 and was supposed to be revisited after that and that hasn't necessarily happened. I don't know that this is something that I am comfortable forwarding without taking a systemic look at what sentences we have attached to what offenses in this State and the various offense levels assigned to offenses in this State. For that, I am going to be a no on this.

Justice Cadish: Thank you, Mr. McCormick. Any other comments or questions? Sorry, Ms. Cafferata I see.

Ms. Cafferata: Just in my time on this Commission, it has become very clear to me that things that seem like they might be linear in terms of impacts to the system, are not. I would really think we would need to have a lot more analysis on what the impacts would be, so I can't support it at time.

Justice Cadish: Thank you. Mr. Hicks did you want to speak?

Mr. Hicks: Yes, I just wanted to make a comment in regards to some of the discussion. When this law was passed in 2007, the projection of the Nevada prison population in 2020 was to be 22,000. It is now as we got handed in our materials, 10,376.

Mass incarceration is a term we hear often and it's certainly one we should debate and consider, but what I would say in regards to this, if you look at the Nevada prison population 20 years ago, it was 274 more

inmates than it is now, and I certainly suggest that belies any mass incarceration argument, particularly in face of the fact that Nevada has grown by 1.1 million people in that 20-year span. We've eliminated our prison population by 276 and yet our State population has grown by 1.1 million. Simply put, this was a hasty, as admitted by the former Chair of this Commission, decision made to eliminate truth in sentencing out of business decision and we're no longer there. It's just step one in truth in sentencing in Nevada and it's really just saying, look, as the Sentencing Commission for Nevada, we should believe our sentences should be honest. Minimum should mean minimum. I think that those are important factors to consider when you're contemplating this motion in your head. Thank you.

Justice Cadish: Dr. Lanterman.

Dr. Lanterman: Thank you. I agree with DA Hicks that we want consistency and reliability in our sentencing, but I will say that we know nationally the trends since 1980's, 1990's, 2000's was to ratchet up sentence ranges so you might have an identical conviction in 1980 and 2015 and the person in 2015's sentence range is much higher than the person who was convicted of that identical offense in 1980. Now what we have is this population of people who have been convicted of offenses serving a percentage of their sentence that is below the minimum as Mr. Hicks has highlighted. That could be an injustice, or it could be a strategy in the system to recalibrate the system to sort of move us away from ratcheting up with those sentence ranges. We don't know that without an assessment of those sentence range trends over the last three decades in Nevada. Without that information, I am not comfortable voting on the motion as made by Mr. Hicks. Thank you.

Justice Cadish: Thank you. I just want to clarify, because I have been on the Supreme Court now for a few years and not being directly involved in sentencing for the last few years, is it still the case that time is coming off the front end only on the C, D and E felonies, is that right?

Mr. Hicks: That's correct Chair and I should point that out the subsection eight and nine, specifically delineate that. This only applies to, of which I am suggesting we move to redact, it only applies to C, D and E felonies. We would not be dramatically affecting the prison population of our violent people who are in category A and B felonies, sexual offenses, serious DUI crimes and violent crimes.

Justice Cadish: Thank you for the clarification. Any other comments or questions regarding the pending motion? Mr. Hoffman.

Mr. Hoffman: Thank you. I just wanted to make one other point; I know there's an issue in the prison system, there are staffing problems because there's staffing problems everywhere, you know state governments can't pay as much. As I understand it, one of the main points of good time credits is to incentivize inmates to do good time, you know, not misbehave, not be starting fights and I worry that in a time where we don't have enough correctional staff as it is, if you take away that incentive for them to behave better, that's going to lead to more violence and more crime and worse conditions in the prison. I think that's another reason to vote no on this. Thank you.

Justice Cadish: Thank you. Did you want to comment Mr. Hicks?

Mr. Hicks: Thank you. Again, as I said at the beginning, this motion, in no way affects the good time credits that were contemplated in AB 510 and are listed in NRS 209.4465. I am not moving to affect that in any way.

Justice Cadish: It would still, obviously it would still come off the back end of the sentence but not off the front end.

Mr. Hicks: Exactly. Thank you.

Justice Cadish: Okay. Any other comments? Assemblyman Roberts.

Assemblyman Roberts: Thank you, Madam Chair. I appreciate the motion and I appreciate the discussion. I just don't think we as a Commission have had enough data and information on it. I mean this is the first I've heard of it today and I just can't support it at this time without more information. Thank you.

Justice Cadish: Thank you, Assemblyman. Any other comments, questions, discussion regarding the motion? Seeing none, let's go ahead and do a roll call.

CHRIS HICKS MOVED TO TAKE A STEP TOWARDS TRUTH IN SENTENCING IN NEVADA AND TO REDACT OR ELIMINATE SUBSECTION EIGHT AND NINE OF THE NRS 209.4465.

MICHELLE BAYS SECONDED THE MOTION

MOTION FAILS

(ROLL CALL VOTE CONDUCTED BY DIRECTOR GONZALEZ.)

Justice Cadish: Okay, thank you. Any other motions pertinent to agenda item number six? I'm not seeing any hands. Okay, with that we will close this agenda item.

7. Discussion and Possible Action on Projected Amount of Costs Avoided Report

(For discussion and possible action)

A. Presentation of draft report B. Discussion of draft report C. Approval of draft report

Justice Cadish: Now open agenda item seven, discussion, and possible action on projected amount of costs avoided. This Commission is tasked with tracking the costs avoided due to the enactment of AB 236. In December, we submitted the statement of costs avoided which identified the costs avoided as of December 2021, the next report related to costs avoided is the projected amount of costs avoided which is due on August 1st.

The Director and her staff have prepared a draft of this report for review and approval by this Commission. When she is done presenting, this Commission will discuss the draft, make any necessary edits and if we are ready, approve the report for submittal by August 1st.

I will now turn the time over to the Director to present the draft. Director.

Director Gonzalez: Thank you, Chair. A copy of the draft report has been included with your meeting materials. I will walk through the report in detail. The headline here that I want to highlight is that we have come up with a revised formula and methodology to calculate the costs avoided.

There are statutory requirements for what needs to be included in the formula and we have been working for the last couple of years to figure out what else could be included in the formula. As this Commission is aware, we've revised the formula a couple of times now as we learn more information and context that we feel like will better deliver a more reliable and sustainable methodology for calculating the costs avoided.

The report includes the revised formula methodology and analysis for consideration by this Commission. Keeping that in mind, I will now walk through the report section by section.

The first section of the report are the statutory requirements related to calculating the costs avoided. Again, there are two reports related to calculating costs avoided. There's the projected amount of costs avoided and then there's the statement of costs avoided. This report is the projected amount of costs avoided. The statement of costs avoided will be due in December.

The next section summarizes what was in the last statement of costs avoided as these reports all interact and are related so we summarized what this Commission approved in the December 2021 report.

As you can see, we talked about in that report about the difficulties in identifying the costs avoided due to the COVID pandemic, because the costs avoided are related to reviewing the prison population projections

and trying to identify what the impacts from AB 236 have been since it was enacted but with COVID hitting around the same time that AB 236 went into effect that's been very difficult, to identify what we would attribute to AB 236 and a response to the pandemic.

One of the other things I wanted to point out was the very last paragraph on that first section of page one, which we have just identified, which I mentioned earlier in my other presentation, what we are calling upfront investments on reinvestment. One of the things we have talked about is where there's a need for funding of programming and treatment and those things that were intended to continue to impact the prison population in terms of keeping it low, while also reducing recidivism and maintaining public safety and so you'll see that we want to remind in this report of what the intentions were of justice reinvestment and reminders of that upfront investment.

The next section of the report reviews the formula that was previously adopted by this Commission which was included in the previous report. Very simply what we did for the formula was we took the prison populations from February 2017, and then compared those to the actual inmate population and looked at the difference and then multiplied that by the average daily operating costs of incarcerating an offender. That's how generally the costs avoided have been calculated.

As we have mentioned in every single report that this Commission has approved previously, there are many challenges to doing this; there's a lot of context that come with using the average cost per day. It doesn't always capture exactly what the cost of incarcerating someone is, as costs can vary from facility to facility, classification level, treatment and things like that and of course as we observed with the COVID pandemic, just looking at that straight calculation might not be the best way to capture what are we spending our money on in terms of correctional costs and what costs have been avoided due to changes we may be making in our reforms.

With that in mind, thinking about the context we've addressed previously, and thinking about what is truly sustainable and what's truly going to help us identify what the impacts from AB 236 have been, we've developed a new formula that will still include the statutory requirements but an additional analysis in order to capture the full picture of what is happening with our prison population and trying to analyze what happened in response to AB 236.

What you can see on page two, I've numbered one through six and these would be the sections of the analysis of costs avoided. What we would do is generally look at where were we headed. Looking back to 2018, when the policies were AB 236 were first developed. We want to look at the projections that were used for that year, so if we start with looking at that question, where we headed, we would review the February 2017 JFA projections. Those JFA projections would have been used as the foundation for developing the budgets for DOC fiscal years '18 and '19, and so those projections inform where it looked like we were going.

The next step of the analysis would include referring to the projections cited back in 2018 and that ACAJ final report from January 2019. Those projections were used as the foundation for supporting AB 236 policies and understanding at that point those projections that were done identified where it looked like we were going, or if AB 236 had not been enacted where we were going. Those projections differ from the JFA projections that were used in February 2017, they were still based on JFA projections, but they were included in that ACAJ report and analyzed by the Crime and Justice Institute when they were helping ACAJ develop those policy recommendations.

The next step in the analysis would be looking at those projections as identified by CJI in that report, what if AB 236 had not been enacted, those policies approved by ACAJ and moved forward for AB 236, promised a certain change in our population, our prison population, if AB 236 were enacted. Again, we're going to look at where were we headed, what if AB 236 were not enacted and what if it was enacted. What could we realize, the benefits from that?

The next step in the analysis, step four, would be where are we today? This Commission would then analyze the most current NDOC prison population projections to get a sense of how are things going. Step five would be, where are we currently headed. I apologize, step four would be looking at the most current DOC populations. We could look at what is the population look like today and then from there, we would go to step five and look at the most current prison population projections, which would be the most current projections from JFA. Again, those projections are done on a regular basis and so they are adjusted based on the current trends of the prison population and adjusted appropriately. Then, our recommendation is for this Commission, moving forward, would be step six. By analyzing all of this information and comparing all of it, we would actually be able to identify costs avoided.

As you can see this approach is what we think would be the most accurate way to keep track of everything moving forward and is still going to be using the data that is statutorily required, along with the analysis and expertise of this Commission.

What does that look like for this report? Using this new analysis and what are the costs that have been avoided. Looking at that first section, where were we headed? For the February 2017 JFA projections, you can see the chart on page three, that shows the projections of that year showed that just where we are today based on those projections predicted that by fiscal year '22, we'd be at 15,377 individuals in our prison population and that by fiscal year '27, we'd be at 16,409. Again, remember this is before even any discussion of AB 236 had happened, but these were projections that were identified by JFA and uses the foundation for building the DOCs budget for the 2017 Legislative session, which would have been for their budgets for 2018 and 2019.

As a refresher, the step two would be referring to that ACAJ final report from 2019, and what was the concern if AB 236, the policies that led to AB 236 were not enacted. The population projections at that time predicted that by 2028, we would be 15,774. So again, this is helping us stay in compliance with the statutory requirement to look at those projections from before, where were we headed?

Step three is what if AB 236 were enacted. Reviewing what was promised from those policies that were developed in the report; the report promised that if the policies were successfully enacted by 2028 our prison population would be at 14,008, so we'd save about 1,000 inmates and what was done at that time, there were calculation identified that would promise a certain amount money that would be saved over the next ten years, from 2018 to 2028 if the policies were enacted and what the impact of avoiding those 1,000-ish offenders would be. And what was promised was 640 million dollars in costs avoided if AB 236 were enacted by 2028.

You can see at the top of page four, you can see the comparison again of where AB 236 if AB 236 were not enacted, if it were enacted and that difference of about 1,066 inmates in the prison population.

One of the things we wanted note here, which I think is going to be very, very important for the analysis of costs avoided, is what exactly were those costs avoided. This is where we want to get away from the daily operating costs because in order for us to truly understand how these costs avoided were calculated can help us figure out if we really are on track. Let's identify what were the challenges that were being predicted.

What I note here is that 640 million dollars that was promised, 470 million of that was attributed to the costs that would come with building a new prison and having to update two or three other facilities that would add additional prison beds. That's significant to note when we are talking about costs avoided. One of the discussions that has come up previously when we have talked about costs avoided is that true costs avoided would be realized when additional prison construction is either avoided or facilities need to be closed. What happened here when identifying the costs avoided back in 2018, that led to the enactment of AB 236, was identifying costs that would be avoided due to construction. That is what was promised back in 2018, looking at that full analysis.

Next step is let's look at our current prison population. As of March 31st, 2022, the prison population was at 10,076. We know this is not going to give us the full picture. The next step is, let's look at the JFA projections for where are we headed. Where we're headed right now is, in the March '21, JFA prison population projections, which were used most recently in the 2021 Legislative session to help build the foundation for DOC's budget for the next two fiscal years, the projection showed that we were at 11,627, and found that by 2028, the prison population would be at 13,067. You can see here where I put, this means that to date we are well below, not only the prison population projected for today, but the prison population that was projected for 2028, that ten years out from when the policies that led to AB 236 were first started.

The table that comes next is what we would propose actually is the way that this Commission starts tracking costs avoided. What I think is going to be important to track, is the prison population avoided. The costs avoided are due to that prison population that we no longer have to house or have to worry about in our facilities. If we analyze it this way and compare the projections over time based on how they are being adjusted to the current population and current trends, and you can see the comparison we have to the actual in-house population for each year that we would do a report, you can see over time in 2020, that means we avoided about 2800 offenders housed in our prison. In 2021, we avoided 4,000 based on the projections. Currently, for this current fiscal year we're avoiding about 1500. In the aggregate we can see how costs have been avoided because the prison population is trending down, and we know that this is going to be attributed to COVID and a little bit of AB 236. We're not sure what the proportion is here. But we can see that the population is trending down and despite the inability to identify specifically what comes from the pandemic and what is a response to AB 236, based on the current population projections, we're still trending way below what was the concern back in 2018 and 2019 when AB 236 was first enacted.

This means based on the current prison population projections we are on track to avoid the correctional construction costs which would be that 470 million dollars. There's going to be two ways for this Commission to track the costs avoided. It's going to be looking at are we still on track to avoid those correctional construction costs, that 470 million, plus that additional amount in other correctional costs that would have just come housing individuals. I think this gets us away from trying to identify some sort of calculator that will help us look at the average costs per day. We can truly look at what the costs are being avoided. As we know costs are difficult to avoid because it's money we didn't spend and that's difficult to identify, what's money we didn't spend? But this gives us a good handle when we can say we've avoided construction and we've avoided having to house individuals over time and this is the amount that was promised back in 2018, it looks like we're on track to that.

That last paragraph at the bottom of page four of course identifies the challenges that have come with trying to identify costs avoided in response to the pandemic. One of the things that you'll note here is that it doesn't change the need for programming and treatment and that sort of support in our State. AB 236 was enacted with these policies underlying that we were intended to keep the population down, maintain public safety and reduce recidivism by funding these programs. And as was discussed earlier, there's a lot of funding that wasn't provided upfront for understandable reasons but that does not change the need for this funding and the need for funding these programs that are going to continue to give us the outcomes that we want. That's one of the things we want to again keep in mind is that reinvestment isn't going to happen without these upfront investments.

Statutorily required of this Commission is to make recommendations. What you can see on the last page of the report is, if we were to take a conservative approach based on the current analysis but using the current methodology that we've got proposed here, is that based on those other costs avoided, those other costs avoided from the avoided prison population, so the prison population avoided, we figured that very roughly translates to about 170 million in other correctional costs during the eight-year period that would be after AB 236. It's about 21 million dollars a year and so we think that the intent of the Commission should be when it's analyzing the prison population, it should be, are we on track to avoid the population that we were concerned about reaching if AB 236 had not been enacted. What we can see here is we've been on track

for the last two or three years even before the bill went into effect and so if we calculate out this 170 million other costs, we've got about 42 million dollars that didn't have to be spent, that didn't have to be spent because we can see the prison population that was avoided based on the projections and the comparison to the current inmate population.

What you can see in the bullet points, those are the statutorily required considerations for this Commission to make recommendations for funding. Based on these calculations of the other prison costs that have been avoided due to enactment of AB 236 based on the analysis that was done on the previous page that would mean we're looking at about 42 million dollars that should be invested in all the things that are listed here. It's what we've already been talking about. It's additional programming to the Department of Corrections, it's additional funding to Parole and Probation, it's funding to behavioral health response grants that have been set up by POST that was created in AB 236, and they need funding for those grants. It would be money to the Housing Division of the Department of Business and Industry and then funding the grants that are overseen by our Local Justice Reinvestment Coordinating Council who reports to this Commission which I will talk about in my update about the Coordinating Council but the Coordinating Council is working on a very specific request for an appropriation to fund those grants and so what we have here in that recommendation, the third to the last paragraph, is this Commission approving any requests that comes out of the Coordinating Council to fund those grants and right now we are track to maybe just request three million dollars of this 42 million dollars that we have identified as costs avoided from the last two years since AB 236 was enacted.

And, finally, even though it's not statutorily required, I think it's important for this Commission when it's making recommendations to look for opportunities to support and fund the data systems of those entities that provide data to this Commission for its analysis. The second to last paragraph you can see that the recommendation here, the proposed recommendation here, is that a significant amount of the 42 million dollars in costs avoided be invested in DOC and P&P in improving their respective data systems as this will help the Commission and our State and administering our incarcerated population as a whole.

Again, the thing we want to emphasize is this need for an upfront investment. If you want to realize reinvestment there needs to be an upfront investment and not funding these things and not putting money into these programs and treatment does not change the needs that are there, and it does not change the goals and the policies behind Justice Reinvestment.

With that, I will turn the time back over to the Chair.

Justice Cadish: Thank you, Victoria. Does anyone have any questions or comments regarding Director Gonzalez's report? I see Mr. Callaway first.

Mr. Callaway: Thank you, Chair. Thank you, Victoria, we've had a lot of off line comments about this report and this concept of costs savings going back to when this AB 236 first started back in ACAJ and Sentencing Commission previous Commission meetings. As we've talked about in the past, first of all, there's a number of things that pop in my head over this whole costs savings projected into the future, basically this idea that we're going to be able to spend money that we project in the future we will have because we've saved it because we didn't take certain actions. And the first pill that I have a hard time swallowing is the fact that AB 236 is relatively new, it's only been in affect a little over a year, we've had a COVID pandemic. Prior to AB 236 being implemented, our jail populations were trending down significantly; I think since 2013 our jail population decreased 11 or 12 percent, I don't have the exact numbers in front of me. There were a number of changes in the law enforcement, whether it's use of technology to solve crimes, changes in how we police and then AB 236 comes forward and it is assumed that any positives that come in the future are results of AB 236. I know you're in a tough position to where you have to create these recommendations and costs avoided report but again, I've brought it up in the past with Justice Hardesty and I'll bring it up one more time since we're on the conversation, I still have not seen any look at costs associated with diversion. We saved X number dollars in the prison, but what was the impact on local jails? What was the impact of diversion?

For example, somebody that previously, prior to AB 236, might have received a prison sentence for their crime and now because of the changes in thresholds for felonies or the changes in drug trafficking levels, now that person instead spends time at the local jail; what's the cost associated with that, and the cost for treatment and housing and the cost that's been basically diverted from the prisons?

Number two, what's the cost to the system on reoffending? Somebody again we saw this, we've seen real life examples of this time and time again, California Proposition 47, people released from prison early and we could argue recidivism rates or whatever and what the studies show or don't show, but from eyes on the ground, boots on the ground, cops I talk to on a daily basis, turn on your news, turn on the TV and see the cases where somebody who commits a crime, victimizes somebody, whether it's running down a family in their car doing a hundred miles an hour down the roadway, whether it's killing a highway patrol officer, whether it's raping someone, a juvenile, a 14 year old juvenile, somebody that should be on house arrest and has absconded, I can go on and on and on, the question is how many of these folks would have been incarcerated prior to AB 236 but yet their out revictimizing people and then when they are caught, then they go through the system and we have the costs associated not only through victimization but to the system itself from that?

And then finally, I saw an article just recently where California voters, I think it was going to the ballot about reversing some of the property crime measures that were put in place in California that mirror some of the reforms that were done in AB 236 for property crime because quite frankly there's a quality of life issue here. I raised it in the last meeting with the CJI report that is quite often overlooked and when two years ago, stealing your property would have been a felony crime and now it's a misdemeanor and the police won't respond because it is not prioritized high enough now and people decide they're not going to report crime because there's no use in reporting crime and gee, it looks like the numbers went down and it looks like crime is dropping when in fact, people are frustrated and people are tired of being victimized and what's the quality of life costs that can't be quantified? So I'm speaking philosophically here quite a bit, my frustration I guess comes out with this but I'm seeing the impacts on a day-to-day basis, how it impacts people's quality of life and crime on the street and victims and I don't see any discussion of that in the CJI report, I don't see discussion of that in this report and I don't see us looking at how that was impacted by AB 236.

I'll get off my soap box, but thank you Chair.

Justice Cadish: Thank you, Mr. Callaway. Was there other comments or questions regarding this topic? Or the report Director Gonzalez made? Not seeing any other hands. Go ahead, Ms. Bays.

Ms. Bays: I echo what Commissioner Callaway says. One of the things that have been troubling me I guess is, a lot of these declines seem to be several years back, farther from what we're at. How do we separate that out? There has been a lot of discussion about additional studies trying to balance out about whether this is being shifted away to rurals, that's very important of course to look at. I guess I'm just thinking that there's just maybe some more that we need to do to analyze this, and this Commission is very well suited to that. But these numbers and declines and everything that we are hearing seem to have been starting well before what we were looking at. I guess that's just what I am saying is just feel like we need to see more to be able to pinpoint where this is coming from, where are these costs avoided are coming from or if they are just simply shifting off to another part of our State and our community.

Justice Cadish: Thank you, Ms. Bays. Any other comments?

Mr. Callaway: Director Daniels has one, Chair.

Justice Cadish: Thank you. Go ahead, Director.

Director Charles Daniels: Thank you very much. I just wanted to state publicly that I really appreciate the work that Executive Director Gonzalez and the team that she's assembled. There were quite a few assumptions made as you look at the metrics on how you decided costs avoidance and such and she has

spent a lot of time, as a matter of fact, she and her team toured all of our prisons. They got to know the differences in how we actually operate and how you absolutely cannot just look at a costs basis when you look at the amount of offenders we have in custody as opposed to the costs, because the costs are relevant and just because we have X amount of beds in our facilities doesn't mean that we can put someone, for instance, if we have a housing unit that's designated for let's say, 200 mental health inmates that have to be there based on their type of diagnosis and their level of programming and in addition to that, we obviously have to keep them away from our more predatory inmates. We could have a 200-bed unit, and only have 19 folks in it and guess what, we will still need those beds in the event we get an uptick, but we can't put folks in there.

Then there's different costs, higher security requires a lot more cost and security and observation and electronics than it does at our very low security institutions. I had been frustrated over the years when people were trying to make a direct line, have this many inmates, if you reduce that, it's X amount of dollars. Those calculations have always been false in every single system. The nuances are important, and I just think it's important that we extend to the team that took the time to actually come out and see and they see that they had to pull back from those straight-line numbers. Those straight-line numbers quite frankly didn't mean anything to us because we have to sequester inmates in so many different ways. Once again of course, the security apparatus but keeping people separate from one another who ordinarily would be at the same security level, keeping our predatory inmates away from our not so predatory inmates and just keeping those inmates moving around and ensuring that they get to a location where they can take advantage of our vocational training programs, our prison industry programs, education programs and so on. There's so much more than just looking at the numbers and I'm just, I am tickled that you all are now taking the time to see that there's so much more involved.

A lot of what we do quite frankly happens on the front end in the enforcement phase which was just mentioned but we also have to remember the prosecutorial phase and the judicial phase, by the time we get them, we still have to deal with all the information that comes out of federal courts, our State courts, anything and everything to do with our medical and of course we're subject to things like inflation like everyone else. The costs shift, our costs have shifted exponentially although our inmate population is way down but when you look at the costs, just trying to feed these individuals because of what's going on out in the economy, it is very, very trying and there's a lot of work that needs to be done and I won't spend a lot of time on talking about our staffing. But our staffing is woefully low, obviously because of benefits and or a lack thereof benefits as well as our costs.

We have a professional workforce; our officers are POST-certified. I am very proud of them, and I just want to say here publicly to memorialize it, when everybody else decided to Zoom, and what I mean everyone, that's not literal obviously, but when a lot of folks went home, had to stay away, not one of my staff and it doesn't matter whether Post-certified or not, were exempt. Everyone had to come to work, and these folks were courageous, manning the line and just taking into consideration each and every one of those staff members still had to deal with the issues that everyone else did. What do I do with my kids, we can't take them to daycare, what's happening to my spouse and their job, who's going to do whatever we have to do, their families were being sick just as well? We lost several staff members and we had family members of staff members but yet we had to man the line each and every day.

The fact that someone is taking the time and they are not being dictated to on how they have to look at these metrics but they're taking a good solid look and looking at factual information and trying to understand how we manage and move our inmates around to keep everyone safe, starting with society, staff safety and inmate safety. Anyway, once again, Executive Director Gonzalez, I really appreciate the work that your team is done. There's still a lot more work to do, but it's a good start. And I also want to extend that I appreciate a lot of the questions that members of this Commission have asked because these are very telling from every vantage point. I am very happy to be a part of this Commission. I'll also tell you; my staff are heroes 365 days a year for the last several years not one of us took off unless we were sick. Thank you.

Justice Cadish: Thank you. Director Gonzalez.

Director Gonzalez: First, thank you, Director Daniels, I appreciate that. Your comments about what we've been working to try to identify.

To your comment Mr. Callaway, I do owe you an apology, because I just remembered in our very first report, we put a little footnote that we were going to look into diverted costs and I got so focused on trying to figure out this average cost per day, I completely forgot. I appreciate that reminder.

This Commission knows how important it is to me and my staff to support this Commission in getting the context. There's so much that goes in to telling this story, which is why we haven't just left it at a straight calculation in a formula. Depending on the direction that this Commission decides to go today, we do have until August to refine this report and so with your comments and Chief Bays' comments, and depending on what else we're interested in, I could work with you guys over the next couple of months to start talking about how we want to start measuring diverted costs because honestly I wouldn't know where to begin. I'd want to be able to work with you to figure out what are some metrics we can come up with and if the Commission approves this report, it could be approved with the conceptual addition of adding something about diverted costs with the intent that over the next couple of months we would put something together and then circulate that draft to make sure it captures the intent of the conceptual change to the reports.

Thank you for that reminder and now that we've got this one little piece maybe we can still keep working with DOC figured out and now go back to the local impact of this because that's a realistic thing to assess when we're talking about anything with criminal justice reform is how it's affecting every single part of the criminal justice system and not just one part.

Justice Cadish: Director there's a report that's due by August 1st, is that right?

Director Gonzalez: Correct.

Justice Cadish: What are you seeking from the Commission today then on this matter?

Director Gonzalez: If the Commission has an appetite and is ready with what we have here, it would be to approve this report that we have drafted for you today with this formula and recommendation. If you're not ready, please give us guidance on what you would like to see, so that we can work on that. Based on the timelines, figure out how we get something back to this Commission in time. I guess that would be the first thought is, does this Commission approve the report as it's written? If not, then we need some guidance about what to do next. Then the third part would be, if it's approved, but you are interested in adding this piece about exploring the diverted costs, approve that in the motion to approve the report and then we will make sure to add something and then circulate that before it's submitted to make sure that the Commission agrees with what we presented to represent the concept.

Justice Cadish: Thank you. With that, is there any other discussion or would someone like to make a motion?

Mr. Callaway: Chair, we have a question here from Dr. Bradley.

Justice Cadish: Sure, go ahead Doctor.

Dr. Bradley: Hi, just a couple of other considerations, I wonder about any increases in the Federal system from our Nevada residents. I'd also appreciate looking at the numbers in the State psychiatric hospitals, forensic and civil, because I know there's been increases.

The recidivism, I think Mr. Callaway took a lot of these pieces right off my notes here, just kidding. I think he mentioned this also, the additional diversion programs, what are the numbers looking like there? I know this is complicating things more, but these are just other pieces that I had thought about.

Maybe in true psychologist fashion, are there some other pieces that we can look at, maybe not for this report necessarily, because I realize this is a cost avoided report, but I wonder if there are programs that are working, that people are getting diverted into that work programming or things like that where there's a positive impact?

Then lastly, I had asked about Medicaid in one of the previous agenda items and if we knew the percentage of people who were getting Medicaid. I don't think I realized all of the pieces of AB 358 from last session that allows for Medicaid to be suspended while people are incarcerated and has some other provisions for applying for Medicaid prior to being released from prison. I just wanted to throw that out there as something to look at when we look at keeping people out of the system, so recidivism and programming. That's all I have.

Justice Cadish: Thank you. Yes, Dr. Lanterman.

Dr. Lanterman: Thank you. I agree that I think if we're thinking about total costs or cost savings, that it's really important to determine whether we have costs that have been eliminated or whether we have costs that have been diverted to other parts of the legal system or to the community. But also, that's going to take really significant amount of time to explore. I don't think realistically that's achievable by an August deadline.

I would be comfortable approving this report with a recommendation that those additional issues be explored for future reports because we don't want to rush things, like we don't want to rush policy, we also don't want to rush this analysis because this particular analysis is going to be really complicated and you're not going to get it done in two months, that's not going to happen.

If we can make a recommendation that this Commission really has to explore that in this current report, that I'd would be comfortable moving forward. Thank you.

Justice Cadish: Thank you. Anything else or did someone like to make a formal motion for a vote?

Mr. Callaway: Chair, this is Chuck Callaway. I would make the motion that was just made up north, that we approve this report today, with the understanding that we will delve deeper into the cost diversion issue in future reports.

Justice Cadish: Thank you. Is there a second to Mr. Callaway's motion?

Dr. Lanterman: I'll second.

CHUCK CALLAWAY MOVED TO APPROVE THE COST AVOIDED REPORT WITH THE UNDERSTANDING THAT FUTURE REPORTS WILL INCLUDE COST DIVERSION DATA.

JENNIFER LANTERMAN SECONDED THE MOTION

MOTION PASSES UNANIMOUSLY

8. Presentation from HOPE for Prisoners

Justice Cadish: Agenda item eight was a presentation from Hope for Prisoners but Jon Ponder is not present today, so we are going to go ahead and skip that item for today and go on to item number nine.

9. Update on Recent Activities of the Nevada Local Justice Reinvestment Coordinating Council

Justice Cadish: We will now open agenda item nine. Update on recent Activities of the Nevada Local Justice Reinvestment Coordinating Council.

As a reminder, the Coordinating Council was established with the enactment of AB 236 and reports to this Commission on implementation of AB 236 at the local level. The Coordinating Council was also tasked with overseeing grants funded by the costs avoided as identified by this Commission. Those grants are part of

the reinvestment implemented by AB 236. The grants are used to fund programs and treatment that reduce recidivism at the local level.

The Coordinating Council has met twice this year and once last year. Director Gonzalez will now provide an update on the most recent activities of the Coordinating Council and what we can hope to hear from them at our August meeting.

Director Gonzalez: Thank you, Chair. Just a quick, hopefully, update about what the Coordinating Council has been doing.

One of the things that the Coordinating Council has been doing, is looking to complete inventories, trying to understand what is going on in the counties. Not only with what services are being provided but the last inventory we submitted to each county was to survey the data in that county. One of the things is we know is important to data, that extends to the Coordinating Council as well. Especially when it comes to if and when they get grant money, how are they going to oversee that and what data are they going to be used to tracking that.

Our staff created an inventory or survey, for each jail that was to be completed to do an assessment of what kind of systems do they use, what kind of metrics do they collect. Just because they collect data, can they aggregate the data and the next question is, generally can they share their data.

We received response from some counties. I would invite you to watch the Coordinating Council meeting. We just met last week to review the findings of those. The few responses that we did receive, gave us a great insight into the varying systems that are out there and the different capabilities that each system has. What we're going to do is next steps based on the findings we got from that, our staff will then reach out to each jail and hopefully complete a sit-along so that we can really get our hands and our eyes on their systems to understand what they are doing. We have already done one of these with Carson City and learned a lot about what their data system looks like, which better informs us on how to ask for the data. One of our thoughts by completing these surveys and then completing the sit-alongs is that we're not just blindly asking jails for data, hoping, and crossing our fingers that they'll be able to get something to us. If we can understand their system, then we can make our requests to them more intentional and more directed at what they can provide and then it's possible given the opportunity, maybe these grants could be used to shore up their data systems or support them depending on what they have. Anybody who's looked at any of those BJS websites or anybody else who's trying to collect data from our jails, usually it comes from one place and trying to understand and meet them where they're at, I think is a place to start when it comes collecting data from the jails.

The next thing I wanted to update this Commission about is what I've talked about, in other aspects of our agenda today is a request for an upfront investment. Again, I'm calling this an upfront investment in reinvestment. The Coordinating Council is tasked with overseeing grants in the counties to help the implementation of AB 236. It's for programs and treatment at the local level. In order for them to fulfill their statutory mandate, they need some upfront money in order to start funding these grants. Again, as we talked about previously, by funding these grants, then we can continue to actually realize any benefits that were hoped to be seen from AB 236, without just hoping that they'll happen.

We are working on collecting data and analysis and input from the Coordinating Council in order to figure out, what's that first amount that we can ask for. I mentioned in the costs avoided report, we're looking at maybe a request of about \$3 million. There's going to be data to support that request, not only for what types of programs are being funded here in our State currently, but other states who enacted justice reinvest, who actually provided upfront investments to their local jurisdictions. We are using that as a foundation for what type of money to request be funded to the Coordinating Council.

The Coordinating Council will finalize this request at their August meeting which is just before the August meeting of this Commission. At the August meeting of this Commission, we will present that finalized

request from the Coordinating Council, which is going to look like a one-shot appropriation request to our budget.

As a reminder, the budget that we submit is due September 1, so at August we'll have enough time to present that to you and to get your input and hopefully approval for submitting that with our budget. In an effort to provided that upfront reinvestment to the Coordinating Council in order to help them fulfill their statutory mandate and then get to see if we can work towards investing in those programs and treatment that are necessary in order to actually fully implement justice reinvestment.

That concludes my report about the Coordinating Council. I'll turn this agenda item back over to the Chair.

Justice Cadish: Thank you, Director Gonzalez. Are there any questions for the Director or comments regarding this topic regarding the Coordinating Council? Seeing none, we will close this agenda item, which brings us to item 10.

10. Update on Subawards

Justice Cadish: Update on Subawards. I am going to ask Director Gonzalez to give us an update on that matter as well.

Director Gonzalez: Thank you, Chair, no problem. Thank you. As a reminder, the Bureau of Justice Assistance provides an opportunity for states that have passed justice reinvestment legislation to apply for funds to support implementation of the policies. Through BJA, any agency involved in implementing AB 236 is eligible to apply for subaward funding. Agencies can use these funds to offset costs associated with implementing and sustaining AB 236. These funds are paid through reimbursement from the Crime and Justice Institute.

BJA made a total of \$428,000 available to Nevada agencies. In prior meeting, the Sentencing Commission reviewed and approved applications from a variety of the agencies including the Department of Corrections. The NDOC was approved by this Commission and BJA for \$231,825 in JRI subaward funding. NDOC was allotted these funds to hire two quality assurance staff. However, NDOC experienced delays in receiving approval from IFC to use these funds and receiving internal approval to finalize the contract with CJI that was necessary for DOC to spend the funds.

Due to that delay, last spring NDOC approached the Sentencing Commission to request an adjustment to its proposal from two quality assurance staff to three, to complete the work and expend the funds by the September 2022 deadline. The Sentencing Commission approved this request as did BJA. However, NDOC again experienced delays in approving the contract. At this point, NDOC will be unable to fully expend the funds that was allocated by the deadline of September 30, 2022. Because of this, NDOC has proposed altering the use of subaward funding in the following way, NDOC would still plan to contract with three quality assurance staff and use subaward funding for travel and equipment to support these positions. This is consistent with NDOC's original proposal. In addition, NDOC would use remaining funds to support the training and onboarding of those staff and to purchase equipment that would allow NDOC in conjunction with the DMV to provide incarcerated individuals with a state ID prior to release. NDOC's revised spending plan comes to a total estimated cost of \$216,813.71. Leaving a balance of \$15,011.29 of funds originally allocated to NDOC.

At the request of Justice Stiglich, given the tight timeline that they've been able to spend these funds, CJI has already spoken to BJA about this revised budget. BJA has approved tentative approval of this plan, but CJI is waiting for formal approval from this Commission.

Before this Commission today are two areas of business. The approval of NDOC's revised request and if the Commission grants approval, then the Commission must decide how to use the balance of the funds.

I will now invite Chris Franklin from the Department of Corrections to speak further on this matter.

Chris Franklin: Good afternoon, Chair Cadish, Vice Chair Brady and esteemed members of the Nevada Sentencing Commission.

The Executive Director did a fantastic job explaining where we are at right now with our budget. I will say that although it has tentatively been approved by BJA and CRJ, that we sent them several options on how we could meet the timeline for the execution of this grant. At the time we did have potential expenditures of \$216,813.71, which our grant contract is now with CRJ for approval and we're hoping will get approved anytime, hopefully this week so that we can start executing the rest of this.

I will say that due to recent circumstances, we submitted a budget to them several weeks ago that we also have a potential of utilizing the other \$15,011.29 to bring in an administrative assistant. One of the functions that we did with this grant, because of the short timeframe that we had, is we utilized this grant to address the quality assurance component of AB 236 and what we need within the Department of Corrections. I was grateful with Dr. Bradley's question about Medicaid, because that's one of our hot topics that at the Department of Corrections. With legislation passed, we have additional staff members out there that are out assisting with Medicaid applications and the direct result is, this quality assurance team is out there checking our numbers as to who's releasing, who's releasing with Medicaid, who did we miss.

Most recently the Governor's office received an update from the Department of Health and Human Services and the Division of Welfare and Supportive Services saying our numbers for Medicaid application being submitted have increased significantly. I think you'll see that the NDOC's goal is for everybody that is eligible to leave with Medicaid, they will leave with Medicaid.

Right now, we're looking at 30 to 180 days before release. It's important to have the quality assurance component to make sure your fidelity of your project and to make sure that you're consistent across all boards. You can see through our submissions to DWSS that we're hitting facilities that have never been hit before, including our rural camps. I would ask the body to not only approve our option six, which was for the \$216,813.71 but to also consider our amendment to add \$15,011.29 which would take us back to the \$231,825 in total for expenditures through the remainder of this grant, which is September 2022. I stand by for any questions.

Justice Cadish: Thank you, Mr. Franklin. Are there any questions for Mr. Franklin regarding his presentation?

Mr. Callaway: Chair, we have a question from Dr. Bradley.

Justice Cadish: Go ahead Doctor.

Dr. Bradley: That is excellent news. I'm wondering if, it sounds like your staff are probably spread pretty thin, so I'm wondering about any use for the one staff to help either provide some kind of resource guide or something on how to then access the services. Because even if people have Medicaid, they don't always know how to actually find behavioral health services or any others for that matter.

Mr. Franklin: Absolutely, that's one of the reasons that our staff does a face to face with the individuals that are getting released. Not only that, we work in conjunction with the MCO's. We've asked them to make presentations now that there's additional MCO's within the State so that we can really make the choice, the individual who's releasing that makes the best choice from them when they get out to the community, which MCO provides the best services for where their headed to.

Justice Cadish: Thank you. Are there any other questions for Mr. Franklin? Mr. Franklin, I want to make sure if I understand and I apologize if I misunderstood. Is there now a proposal that would use the entire amount that was originally to be allocated to NDOC that \$231,000 plus?

Mr. Franklin: \$231,825, yes. Yes, Chair.

Justice Cadish: Okay.

Mr. Franklin: We found within the last two weeks, we found an opportunity to bring in a staff member that fits the criteria of our request for July through August to assist with our vital records and Medicaid.

Justice Cadish: Great, thank you. I'm sorry I wasn't sure on that the first time through. Are there any other questions? I will now entertain a motion to approve that change to the NDOC's subaward for the changes as described by Mr. Franklin. Still the same amount of money to be allocated but in the revised way in light of the circumstances that were described.

Assemblyman Roberts: So moved Madam Chair, Assemblyman Roberts.

Mr. McCormick: Second, John McCormick.

Justice Cadish: Thank you. We have the motion by Mr. Roberts, seconded by Mr. McCormick. Is there any discussion regarding the motion? Or questions? Not seeing any hands. With that, all those in favor of the motion signify by saying aye <responses> all those opposed nay <no responses>. Not hearing any, motion passes. Thanks very much for that presentation, Mr. Franklin, and for finding appropriate uses of that money so we can take advantage of that.

TOM ROBERTS MOVED TO APPROVE THE AMENDED NDOC REQUEST FOR SUBAWARD ALLOCATION

JOHN MCCORMICK SECONDED THE MOTION

MOTION PASSED UNANIMOUSLY

Mr. Franklin: Thank you all very much.

Justice Cadish: All right, so now we're closing this agenda item.

11. Discussion of Potential Topics and Dates for Future Meetings

Justice Cadish: Which brings us to agenda 11. Discussion of potential topics and dates for future meetings. The dates for the meetings for the rest of the year are provided in the agenda. Our next meeting will be in person on August 15 2022, again at the LCB and then we will meet on November 4, 2022, virtually.

Staff for the Commission is already working on more topics and items for discussion at future meetings, but does anyone have anything to be considered for future meetings? I can't see Vegas; I don't know what happened to the camera there.

Mr. Callaway: I see no hands Chair.

Justice Cadish: Thank you. I'm not seeing any hands here Carson City either so make note of those future meeting dates. I can see people in Vegas again. Make sure you make note of those future meeting dates and have them on your calendar specifically noting the August 15 one in person and the November 4 one virtually.

If you think of anything that you would like to be considered for an agenda for a future meeting, please contact Justice Stiglich or the Director.

With that, we will close item 11 and go to item 12.

12. Public Comment Public Comment

Justice Cadish: This is the second period of public comment under agenda item 12. If there is any additional public comment here in Carson City or Las Vegas, please make your way to the table starting in

Carson City. I am not seeing anyone for public comment here. Mr. Callaway is there anyone in Las Vegas coming up for public comment?

Mr. Callaway: No, Chair, not at this time.

Justice Cadish: Thank you. Then we will close that agenda item.

13. Adjournment

Justice Cadish: Thank you so much, it's been a busy day. Thank you for being a part of this important Commission and for hard work today. Thank you to staff, members of the Commission and our presenters. I look forward to having Justice Stiglich see you all in August, nothing personal. Drive safely for those of you up here, you may be dodging snowflakes on the way today. The meeting is now adjourned. Thanks so much.

DRAFT