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NEVADA SENTENCING COMMISSION
MINUTES DRAFT

Date and Time: July 19, 2024

Location: VIRTUAL ONLY

MEMBERS PRESENT

John Arrascada
Chief Michelle Bays
Ms. Suzanne Crawford
Chairman Christopher DeRicco
Deputy Chief Aaron Evans
Evelyn Grosenick
D.A. Chris Hicks
D.A. Mark Jackson
Deputy Director Troy Jordan
Dr. Jennifer Lanterman
Captain Joshua Martinez
John McCormick
Julia Murray
Erica Souza-Llamas
Assemblywoman Venicia Considine
Assemblyman Brian Hibbetts
Senator Melanie Scheible
Senator Lisa Krasner
Vice Chair Christine Jones Brady
Chair Justice Douglas Herndon

MEMBERS EXCUSED

Dr. Shera Bradley
Director James Dzurenda
Franklin Katschke
Jon Ponder
Judge Bitia Yeager

STAFF

Executive Director, Jorja Powers
Deputy Director, Jenna Buonacorsi
Management Analyst III, Marie Bledsoe
Management Analyst II, Erasmo Cosio
Management Analyst I, Jose Sepulveda

1. Call to Order / Roll Call

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

Chair Douglas Herndon: Okay. We'll call to order the July 19, 2024, meeting of the Nevada Sentencing Commission. Good morning, to everybody. Thank you all for making time to join us today. And welcome to those that may be viewing online through our portals or the YouTube channel rather. This is the ninth meeting of our Commission during the 23-25 meeting cycle. And Jorja, I'm going to ask you – Director Powers I should say, I apologize – I'm going to ask you if you could go ahead and take the roll, please.

Director Jorja Powers: Thank you, Chair. Good morning.

(ROLL CALL IS CONDUCTED BY DIRECTOR POWERS; QUORUM IS MET)

Chair Herndon: Perfect. All right. And thank you.

2. Public Comment

Chair Herndon: We're going to go ahead and move on to agenda item two now, which is the first period of public comment during our meeting. There'll be two periods of public comment. The one we are about to enter now and then, one at the end. Members of the public have two options for submitting public comment to the Commission. First, they may do so in writing by emailing the Commission at sentencingpolicy@ndsp.nv.gov. Public comment can be received in writing or public comment that is received in writing will be provided to all of the Commission members. So, they'll have an opportunity to view that before the meeting, if it's received before the meeting or thereafter. Members of the public who wish to testify can also do so by telephone. Due to time constraints, public comment will be limited to two minutes. So, please remember that. Any member of the public that exceeds that two-minute limit may submit further comments in writing, if you wish, to the email address that I just stated. At this time, I'm going to ask staff to manage and direct anybody that's online that wishes to make public comment by telephone. So, if I could, turn it over to Mr. Sepulveda.

Mr. Jose Sepulveda: Thank you, Chair. Members of the public who would like to testify by phone, press star nine to raise your hand. When it's your turn to speak, please slowly state and spell your first and last name. Caller with the last three digits, 948, please slowly state and spell your first and last name for the record. You will have two minutes. Caller with the last three digits, 948, please slowly state and spell your first and last name for the record. You may now begin.

Ms. Jodi Hocking: Hello, my name is Jodi Hocking. I'm the Executive Director of Return Strong. We're an organization that represents over 3,000 incarcerated members in Nevada and their families. Just a couple of quick statements, we would like to address the Cost Avoided Statements and have some questions regarding those for future meetings. One is, we have some questions regarding the data and some other perspectives that should be included in it. One is individuals who were released under AB 236 and their potential return to prison. We need data on those who received relief from AB 236 were released and have since returned to prison due to violations, both with or without new charges. Despite reports of decreasing crime rates from metro, NDOC is showing a rising prison population, which seems to be attributed to parole violations. We have been informed that approximately 3,500 people are back in prison due to such violations, but who are they? Were they released under AB 236 and how does their return impact the cost avoided? The other group we would like data on are those not included in the AB 236 reforms. So, we're talking about cost avoided for the people who were released, but what would have happened if people who were excluded from that relief had been included. This includes both AB 236 and upcoming legislation like SB 413. Research doesn't support the carve outs that we're running in Nevada. So, if we're going to look at data driven decision making, we believe that since there is national data that supports including all people in reforms, we hope to see additional data from our own experiences in Nevada to understand the impact on each carved-out category at the state level, and then, have meaningful data driven discussions about why carve out exists, how they can be addressed, and whether they actually really make sense in terms of public safety. There are a lot of ways this can be done, but the data and discussion are critical to finding answers

and solutions. Finally, I would just like to reiterate our concern that I brought in May of 2024 that there is still no organization dedicated to representing the interests of incarcerated individuals on the Sentencing Commission. That lack of representation underscores why incarcerated people need a voice on this Commission and without direct representation, they're continued to be silenced. Thank you for your attention to those issues.

Chair Herndon: Thank you, Ms. Hocking. Jose, do we have any other folks that wish to make public comment?

Mr. Sepulveda: We have no more callers, Chair.

Chair Herndon: Perfect. All right, we will go ahead and close agenda item number two.

3. Approval of the Minutes of the Meetings of the Nevada Sentencing Commission held on June 21, 2024

Chair Herndon: We're going to move onto agenda item three, that is the approval of our minutes. Do any of the members of the Commission – well, first off, I believe everybody was provided with copies of the minutes from our June 21st meeting – hope so, at least – do any of our members have any edits, comments, or concerns, or corrections to those minutes? Not seeing any hands or hearing any comments. So, I'll entertain a motion, if someone would be so kind as to make one to approve the minutes.

JOHN MCCORMICK MOVED TO APPROVE THE MINUTES OF THE JUNE 21, 2024, MEETING

SENATOR MELANIE SCHEIBLE SECONDED THE MOTION

MOTION PASSES

Chair Herndon: Thank you. So, we will close agenda item number three.

4. Director's Report

Chair Herndon: And we're going to move onto agenda item number four, which will be a report from our Director of the Department of Sentencing Policy. I'm going to turn the time over to Director Powers to provide any updates and information on our Projected Cost Avoidance Report. So, Director Powers?

Director Powers: Thank you, Chair. So, everyone received the red-lined version in your packets of the Projected Costs Avoided Report. We did receive eleven proposed changes about which we will discuss and vote individually. We can do roll call votes for each of those. They are marked on the red-lined version. I will make changes as you make your decisions, and I will go ahead and turn it back over to the Chair.

Chair Herndon: Okay.

5. Cost Avoided Discussion and Approval

Chair Herndon: So, first off, is there anybody that did not get a copy of the red-lined version of the cost avoided report? Do not see any hands or hear any comments. Okay. And I'm going to assume that everybody had the chance to go through that and I accept Director Power's idea, which is wonderful to just work through each of the eleven proposals individually. So, we're going to start with what's on page three of the report, under considerations, where we have the beginning of our eleven proposals. The first being, a proposal by DA Jackson that makes changes to the information beginning. There, are difficulties in calculating. Is there anybody that or if Mark, you want to weigh in on that, since it's your proposal first?

DA Mark Jackson: Thank you, Chair. The basis behind this proposal and I think especially the ones that will follow -- that way I don't have to repeat it, and I'm not going to repeat what I had stated during the last

meeting -- but some of this is based upon the testimony of Director Powers. One of the issues I'm struggling with -- and I appreciate Assemblywoman Considine recognizing this, and I believe everyone is -- is that we're doing this because of AB 236 that came out of the 2019 session. And part of that session, AB 80 I believe, was the creation of the Department of Sentencing Policy and the Sentencing Commission, and what we're tasked with is making data-driven policy recommendations. And so, as part of that, the Legislature also tasked us with taking a projection from 2017 that made it into the 2018, and was part of Assemblyman -- at the time -- Assemblyman Yeager and Chief Justice Hardesty's presentation as part of AB 236 about this \$640 million cost savings that was not only for not building a prison, but for the -- and these are their words, not mine -- ongoing personnel costs. So, up until recently, all these years up until this year, all we've been doing is just taking a part of that \$640 million dollars and advancing it each year. And that's what I've had difficulty with. And so, what I was trying to do is, this part about considerations looking at the lead into it, are thoughts that are offered regarding the cost avoided topic that may not be represented elsewhere. So, I thought it was important and this was just the start of it, but to the extent that we do have some data available to anybody that you know, would read this report, I thought that would be important to add here. So, on this one, I understand why Executive Director Powers used the word encumbered, or well, does not designate encumbered, or available, but the very definition of cost avoided from all of my research is, it's talking about tangible or measurable funds, and that wasn't present from her testimony, and acknowledgements at our last hearing. And so, that's the basis of this first recommendation, changes to the first consideration in our packet.

Chair Herndon: Would it be easier Mark, just to address all four of the first or the first four of them since they're all your proposals and they are kind of interrelated?

DA Jackson: Well, I don't know that one is actually -- they all are interrelated -- two, three, and four are just numbers. That's data, that's statistics. I pulled those from the budget website from the State of Nevada, which is number four or three -- excuse me -- the other ones are just simple calculations of what these increases or decreases are. I believe the fourth one does have a source reference as to where that data came from. And the reason I chose that one is that the introduction of AB 236, there were some changes that had occurred. Some of the most significant changes to our laws in the State of Nevada out of AB 236 were related to, property crimes, and drug crimes. And all of the data that's out there, we're not tracking the drug crime from what I was able to see. So, there was only data really related to the property crime, and this is where the felony threshold was increased significantly, and changes in the burglaries, and I think that it's reflective and that was a significant increase. And that's why I chose to include that because I think that does have a strong correlation to the effects of AB 236.

Chair Herndon: Okay. Anybody have any questions for DA Jackson or just any comments they want to make, we'll go ahead, and group them together. I used the word interrelated obviously, but I understand what you are saying Mark.

DA Jackson: Chair Herndon? I'm sorry, but there is one other thing I did want to add.

Chair Herndon: Sure.

DA Jackson: During the Advisory Commission on the Administration of Justice hearings leading up to this and the ten hours of presentations by CJI that went into the ACAJ's final report, which was the basis of the presentation by the proponents of AB 236. There was a discussion about what the costs were to house an inmate in NDOC and at the time, the figure was approximately \$25,000. It was \$24,971 based upon those 2018 projections or numbers, actual data that is included in the second and third changes in our packet. Currently, based upon the current numbers, we haven't had a decrease, we've gone up. The 2024 numbers, it's \$37,738 per inmate, which is a 51% increase in the cost of housing an inmate in the State of Nevada, and I think that is significant. And it's difficult to talk about Costs Avoided without talking about what real numbers are and what the cost truly is to the State. So, I didn't include that as a bullet point, but you can take the numbers that are included in what I'm proposing be added to this and you can calculate those.

Chair Herndon: Okay. Okay, does anybody have any questions or comments they want to make about the proposals that are kind of contained within one, two, three, or four?

Dr. Jennifer Lanterman: Yes. I am a researcher and I like statistics. But statistics are not just statistics when they're used to imply a relationship that has not been empirically documented. And I have some concerns with a few of these points, because I think that's what's happening here, and this is something I brought up at our last Commission meeting in June. So, specifically with respect to point three, regarding the relationship between the decrease in the Department of Corrections' population and the increase in their budget. This seems to be taking a very general view, that when the population decreases that the budget should decrease, and that might be true assuming everything that should have been going on in the Department of Corrections beforehand was going on, but that is not the case. And anybody who is familiar with the history of the Department of Corrections understands that that is the case. Anybody who understands how prisons operate, how they deteriorate, understands that's not the case. So, typically when you have a Department of Corrections budget, highline you've got line items for the cost of staffing, so their salaries and their benefits, you've got the cost of physical infrastructure, physical plant, and then, you've got cost specifically related to the people who are incarcerated in those facilities. So, feeding them, clothing them, utilities associated with keeping them in facilities, any type of programming for them. Typically, inmate specific costs are the smallest portion of any budget, usually the greatest part of any budget is your staff. You cannot, you can't just decrease a budget if you've got contractual obligations with respect to what you have to pay your staff. Physical infrastructure for prisons is very costly relative to other same sized buildings because of the security needs in those facilities. And prisons must be routinely maintained and upgraded, or they become dangerous. They become dangerous for the people who work in them, and they become dangerous for the people who are confined in them, and if your conditions of confinement get too poor, then you find yourself in the territory of potentially violating an eighth amendment, which nobody wants to be happening for a number of reasons, right? So, they've got a lot of costs related to capital improvement in prisons that generally you cannot avoid if you want to keep your prisons compliant with constitutional requirements. Then, the issue that we've talked about in a few meetings related to the aging prison population, the more your prison population ages, the more issues they're going to have, that are going to include things like, having to modify or retrofit your facilities for ADA compliance, they're going to have additional medical care costs, additional cost related to durable medical equipment, additional cost related to modified diets. So, all those things are going to be additional costs. Beyond that, -- and this is not limited to Nevada -- over the last several decades, we have observed an increase in the number of people coming into Department of Corrections custody who have a wide range of criminogenic needs, particularly, behavioral health care needs and those needs are more severe, and historically, the Department of Corrections has not had the resources to appropriately treat those conditions. So, what you really require is a significant influx in funding necessary to treat those particular behavioral healthcare needs, if you want to observe a decrease in recidivism. So, I don't know that we can necessarily include a blanket statement here that it's a problem that you have an increase in budget despite the fact that there's been a decrease in the population. Particularly when, there are so many things that really need to be addressed in the Department of Corrections, in terms of physical infrastructure and the provision of programs. So, if we're going to discuss the budget at all, we're really going to have to talk about line items here. So, the size of the budget, but what parts of that budget are going to what particular thing in Department of Corrections. So, that's the first thing.

The second is, point four with respect to societal costs. First, societal cost is actually a very vague term that needs to be defined and here, there is an adoption of a very narrow conception of what constitutes societal costs. Specifically, if you were the victim of property crime. This came up in our last meeting about violent crime and we unpacked why that presentation was misleading. The same goes for this. So, there might be a temporal correlation between the implementation of AB 236 and increase in property crimes, that doesn't mean there's a causal relationship, that AB 236 is causing the increase in property crime. So, you have to be really careful about how we present this and the way this is written it seems like this is a statement that is very easy to misinterpret as AB 236 being the cause of property crime increases, and we do not know that to be the case. So, that's the first issue.

It also doesn't take into consideration that there are reductions in other crimes, right? So, there's been reduction crime rate across other types of crime categories. So, you can't cherry pick a piece of data that supports a particular position and advance that as the reason to do X, right? You have to look at those data in totality and in totality, we do observe a decrease in a lot of types of crime and increases in certain others. So, the way this point four is presented, it's like, oh, we have AB 236, and now we have an increase in property crimes, and there might be a causal relationship here. Or sure, what you could also be observing is that you had a decrease in most types of violent crime, and you had increase in property crime, you might have what we have talked about before, desistence, right? People are backing off the severity of crime. You have no idea what's going on here. And so, we require additional data, and additional analysis to really understand the changes in crime patterns that we are observing. And I have a lot of concerns with point four, it's very misleading, it could easily be taken out of context, and it could be used to make inaccurate and potentially ineffective, inefficient, or disastrous legislative recommendations. So, I think we've really got to be careful here about one, not stepping beyond the scope of our charge with respect to this report, but two, not painting with a broad brush here and making statements that are methodologically, or statistically misleading, or inaccurate.

Chair Herndon: All right. Thank you, Dr. Lanterman. Anybody else have any comments on items one through four, or proposals one through four? I'm sorry. I can't. Hence the screen. Hey, Jorja can you take the shared screen off? Because I can't see if people are raising their hands or anything right now. Thank you. Okay. I think Senator Scheible had her hand up.

Senator Melanie Scheible: Yes. Thank you. I don't have the raise hand button available on my zoom this morning. But thank you for recognizing my actual hand. And Dr. Lanterman is actually much more prepared than I am today and said pretty much everything I wanted to say, but much more eloquently. And she has the data to back it up about the definitions of some of these words that are incredibly concerning, and I agree with her overall assessment that these line-item changes are not appropriate for this report. And the other two things that I wanted to point out is, number one, I mean I think that the first edit or the first line item is pretty obviously charged by using word hypothetical and suggesting that the JFA who spent hours, and days, and years of research to do the best calculations possible with projections into the future have hypothetical numbers really does a disservice to all of the hard work that so many people put into developing this plan which ultimately became AB 236 and continues to be the process that we are going through. And the other thing I wanted to mention is that one of the other reasons that we're seeing both a decrease in the population of the prison and an increase in their budget like, Dr. Lanterman said, is providing additional programming to them, providing better housing, and better medical care, and also, the legislature has been working really hard to reduce the number of costs or the amount of costs that prisoners and their families are paying. So, we have taken on the burden as the state that we are obligated to take on to pay for things, like offenders' food, housing, what we used to call room and board, and so, now that that money is no longer coming out of the pockets of the loved ones of people who are incarcerated, the State is picking up the tab. So, we should be glad to see an increase in per person budget, and then, we can use a more nuanced approach to determine if that increase is somehow disproportionate to the increased services, the cost of inflation, the rising prison population, and other factors that cause the increase. We shouldn't assume that an increase in per person cost is bad or that it's attributable to AB 236, the data is just not there. And so, you know, I am not going to approve any of these changes.

Chair Herndon: All right. Thank you, Senator Scheible. Anybody further? Assemblywoman Considine.

Assemblywoman Venicia Considine: Thank you, Chair. I want to echo what was just said by the two previous speakers. I want to start with, I believe that the original Commissioner's draft Statement of Avoided Costs provided the information that was requested under the law, under the bill. I added additional suggestions or considerations to this because I didn't want the only ones to be the only ones considered because I am more inarticulate than our previous speakers about saying, if we are looking at things, if we're going to look at a few things, we should look at everything, but only if we're going to crack this open. But the more I've thought about this and sending it in, if the requirements under AB 236 are such that the original draft met the requirements of AB 236, then all of these additional considerations, and data requirements, and things that I think are necessary to make further decisions, I think that should all go back to the

Legislature to amend the law to allow all of this to be considered in these reports. So, I know that there's considerations on here that I requested to be on here, but they're on there to open up if we're going to have considerations, they should be considerations across the board, and I am okay if they all fail, I'm okay if the idea is to go back to the Legislature and say, these are things that should be left to the Legislature to add to the report that we need in the future.

Chair Herndon: All right. Thank you. Yeah, Captain Martinez?

Captain Joshua Martinez: I just wanted to speak to number four. I mean, we're looking at data in regard to the impact of AB 236 in the crimes that were changed. When we speak from law enforcement side, we know that there were changes that were made in regard to the charging of the particular crime, and we know that we see an increase there now with those numbers in regard to the State numbers of property crimes, and then, we see an increase in retail theft, and we've tried to address that through the Legislature as well. And we seem to be having successes with that here at Metro and I know that was highlighted by our Sheriff as well in the State of the Department. But how do we track that, you know? Just from the academic person that spoke, how do we try to narrow that down and try to get to a better data set, where we know that we made changes to the law, and is it directly correlating to those numbers we see in number four? Because that's one thing we would like to see in law enforcement, is can we show an impact because of the change in law?

Dr. Lanterman: Yeah. So, first, number one, we need more data, which is highlighted in a lot of these points and that's come up in many conversations over many meetings. Essentially, what we observe right now is in one year we have this level of property crime, this year we have this level of property crime, like measurement by year, maybe breakdown by month, whatever, right? But we understand what is the total property crime by year and we know, AB 236 went into effect on a certain date, right? But what you're just seeing right now is a temporal correlation, right? There's a correlation in time between when a particular law was passed in a particular trend with respect to a particular crime rate or this is generally, a category property crime, it's not disaggregated by crime type. So, there could be a cause of relationship, or it could be a completely spurious relationship, there could be other things going on. So, what you have to do is essentially, a time-series analysis or a multiple regression where you are examining patterns, crime trend patterns of the same types of crimes over category property. You probably want to disaggregate by crime type because I'm willing to bet there's probably some variation there and you start your interruption in the time series, is implementation of AB 236 and then, you're measuring all those crime points afterwards by year and you want to have a similar number of data points prior to the implementation of 236. You observe the trends over time and then, in a regression model you probably might even use like, a nested model of some type. You're going to include all sorts of other independent and control variables that we understand influence crime rates generally and then, if you want to focus on property crime influence, property crimes specifically, right? Because it might not be the issues is AB 236, it could be that there's some statistically significant change in the incidence of another variable or variables that we know directly influence the incidence of property crime, right? So, right now what we are observing is a temporal relationship between implementation of AB 236 and overall property crime, but it could be that it's caused by another variable, or variables and we don't understand that until we conduct additional analyses. Which is why a lot of these conversations have revolved around the Department of Sentencing Policy needing additional data to be able to conduct those analyses, so that we can determine what changes we are observing might or might not be attributable to AB 236. And then, once we understand those relationships, we can make better evidence-informed recommendations to the Legislature.

Chair Herndon: All right. Yes, DA Jackson?

DA Jackson: Thank you and I know we could probably all go back and forth, but I just wanted to point out with the current language in the considerations, it says that the last sentence of the opening paragraph, "following our thoughts offered regarding the costs avoided topic that may not be represented elsewhere" and I agree with every speaker that we need more data. So, pointing out at least some of the data, I had offered up some of this and it's not an exhaustive list whatsoever. The second number, those numbers are pulled from the table on page two of this projected amount of costs avoided report. What was missing from

that is what that percentage decrease was and that's what was added here, because it's not represented elsewhere, and it makes it easier for the reader to be able to see that what that decrease is. Going back again to what was presented to the Legislature both in the Committees, in the Assembly, as well as the Senate, is that this cost avoided is not just the capital cost of adding an additional prison or more units at an existing prison, that it also, from Assemblyman Yeager's own testimony, the ongoing operation cost. So, they've already considered that we know that there's medical cost, we know that there's mental health costs. They projected this out for ten years and that was the argument then, which remains true now. And Executive Director Powers informed all of us, that these were in fact projected costs and it was based upon information that at the time we had started a slow steady decrease in the prison population, but that projection had it as an increase, not as a decrease. So, I think that these are additional factors that should be considered and with respect to Professor Lanterman's comments about number four, the first sentence about the societal costs, it's not intended to try to define what societal costs are and we can probably bring that up later. That sentence says, "societal costs are not considered for projected costs avoided" and that was also a statement that we had heard from a previous hearing. This is only one example of again, about the property crimes, that's one example because this again, was one of the two biggest parts of AB 236, what AB 236 did not do because of there were some provisions in it initially -- that were pulled out -- that would have affected violent crimes, the habitual crimes, possession of firearms by ex-felon, use of a firearm, those were actually pulled out and it did not make the final draft, it was not enacted into law. So, there wasn't a lot that would have affected the other three crime areas that are currently the crime data that we're currently tracking. What we are tracking is the property crimes and again, it's not saying you have to draw that correlation, it's just something for anyone that reads this report to consider that we've had this significant increase in property crimes in the state with a significant decrease in our prison population. And I think it is appropriate, you know, to ask every member's support in that connection. Thank you.

Chair Herndon: Do we have anybody else? Thank you, Mark. Do we have anybody else that wants to comment about these? Don't see any other hands. So, I'm going to go back.

Vice Chair Christine Jones Brady: Chair?

Director Powers: The Vice Chair.

Chair Herndon: Got it. I'm sorry. Vice Chair Brady?

Vice Chair Brady: Well and if Troy Jordan wants as well, maybe if he wants to go before me.

DETR Deputy Director Troy Jordan: I can go before you. You had your hand up first, so it's up to you.

Vice Chair Brady: Thank you, Chair. For number one, I do appreciate how the report lists that, "there are difficulties in calculating avoided costs". So, I think that part of the sentence right there, that kind of encapsulates everything, you know a lot of what we're talking about with data and I'm wondering if we could have something like, "there are difficulties in calculating avoided costs because there are multiple factors impacting the budget" and something like that. I don't have it worked through, but I do appreciate, I see what everyone is saying, or what a lot of people are saying in terms of you know, if we're using words like encumbered versus hypothetical. Sometimes those are words that need further clarification, like somebody might be reading the report and say, "What does that mean"? A word like encumbered, is a word that's a fiscal word and people know what that means. So, I sort of like how it is, but I do get the fact that there are a lot of factors that are impacting it. The second part of one where it says, "adopted by JFA in 2017" but on page one of this, I note that in May 2024, it looked like we came up with a new formula. So, I'm not sure that the formula that we are using is the same formula that we began with because we've had these over the last couple of years, we've had these kinds of tough conversations about what does it mean to avoid cost, like we've talked a lot about that. So, I'm not sure if that addition is accurate, or it may contradict with what we are saying on page one. I do want to note that, just agree with people you know, in terms of, the medical costs, the staffing, we received several presentations from NDOC, one was a very good presentation that included the discussion on the aging population. So, we have the aging population, and the increased costs, and other medical costs associated with that. Then, we also had a great discussion at the last meeting of

ours with victims, and costs to victims, and I know that the prison is working to maximize the amount of funds earned by inmates that can go to the victims of crimes and so, that probably has a little bit a domino effect with what Senator Scheible mentioned in terms of you know, the prison taking on more costs, so that they can be utilized in other ways. So, I think that there's a lot of factors here that do pertain to the difficulties. And so, if we keep nothing else, I'd like to keep that first part of "there are difficulties in calculating" I would vote to keep that part. In terms of the correlation between property crimes and AB 236, I will say that a lot has happened in our society over the last few years with COVID. I'm not sure and I know in previous meetings we've talked about the COVID effect on some of the incarcerations, like the level of incarceration, there was a COVID effect. And I know, at one point we had a discussion when can we expect to see the COVID effect dissipate and I imagine that maybe, you know, the next few years we had the reduction, some of that may have been the COVID effect and the consequences with people getting out because of COVID or people dying and different things. Not that many people died of COVID, but I am just saying the COVID effect that we've discussed before. It may actually start increasing as that COVID effect dissipates and for example, there's been this huge backlog in courts because of the things that we you know, put off because of COVID, or continued, or that sort of thing. So, there's a lot of domino effects here. The other thing I'll say about property crimes is, I think it's interesting to connect it to AB 236. I had been connecting it – and I really would like to see more data – I've been connecting some of those things to our economy. You know, we have the increased housing, increased fuel, increased groceries, I would be interested to know if there was a correlation between some of the property crimes and the squeeze, the increase of homelessness, the increase of all of that, how we're to the extent as a society or as a community we are ineffectively dealing with housing, homelessness. You know, to what extent are we causing a less safe community. So, I don't know if some of that property crime has to do anything with AB 236 or the economy. So, those were the comments I had, and I appreciate all of these additions in terms of this discussion that we are having, and I agree with Assemblyman Considine, I would be open to you know, something to the Legislature saying that, maybe, we should look at more of these other things. Thank you, Chair.

Chair Herndon: Thank you. All right, Mr. Jordan?

DETR Deputy Director Jordan: Thank you, Chair. I guess my perspective is, I tend to be caught in the middle on some of this and I agree with parts of what people are saying, but mostly I just wanted to reiterate, I think part of the reason we're doing what I would call these caveats or additions to the number itself, is in large part with both DA Jackson and Dr. Lanterman both said, is that a statistic has to be put in context, and I think that the group has agreed that there are some significant caveats to this number. And working where I work, we put out economic reports every month, and they have to be accurate, and they have to be in context, and I for one, I'm very bothered by the fact that we're being told that this number is not in most ways, accurate or at least there are a lot of other factors going into it. We really don't know what the truth is. And legislators use this number, politicians use this number, committees use this number, and I think at the end of the day, Mr. Jackson is trying to do with these and what Assemblywoman Considine's trying to do with hers is to make sure that the Legislature does have that context, because I agree we should be looking at inflation, and medical costs, and things like that. But I also agree that to say that I disagree with Dr. Lanterman and agree with Mr. Jackson on this point is, I would agree that you could argue that there isn't an effect, or we can't statistically prove an effect yet, but we still can't rule that out statistically either. So, I believe putting that context in there is very important, and from my perspective, and from my employers perspective, I think it's very important that we put out numbers that we think are as accurate as they can or at least put the caveats in to say, these are going to be the problems in using this number as, that it's an actual correct number. And I believe that's all of these caveats are doing and that's why I support a large number of them. Thank you.

Chair Herndon: Mr. Jordan, I'm sorry. Which number is it that you were referring to in your comments that is concerning to you, that may not be accurate?

DETR Deputy Director Jordan: The overall cost savings number.

Chair Herndon: Okay.

DETR Deputy Director Jordan: In previous meetings it's been brought up several times that we don't think that's an actual cost savings, that it's a projection. Some have called it hypothetical; some haven't been that strong, but that this number isn't an actual cost savings that can be put somewhere else. And that's why I've been a big fan of these caveats that say, well one of the reasons it's hard to measure is that we see this number that claims it's a cost savings based on the formula, but maybe the formula is flawed, because the population has gone down, the costs have gone up, and we're not considering inflation, we're not considering medical costs in that number. And I guess if I didn't say that articulately enough, that's what I'm trying to get at, is that I believe that this number needs a lot more variables added into it, so we can get to a true accurate number that says, yes, the NDOC either saved \$10,000 or didn't. And I'll just use an example next year, I expect their budget to go up by \$186 million dollars, and people say, "How do you know that?" Well, because I sat through IFC this week and they're going to need \$186 million-dollar overhaul to the HVAC system at the High Desert State Prison. That will have nothing to do with AB 236, but that needs to be noted. So, that people know that \$186 million had nothing to do with that bill, but there may have been cost savings or additional costs due to AB 236 that we're unable to currently measure. And I guess all I'm really trying to say is, I don't feel that this formula has done what it needed to do in getting to that true number and I believe that these caveats are important to put that out there.

Chair Herndon: All right. John McCormick?

Mr. John McCormick: Thank you, Chair. So, I threw my thoughts in the chat for everyone on this and it seems to me that the struggle we're having, and the discussions that we're engaged in, are regarding providing the report that falls within the statutory requirements that exist for it, but also, reflect all of the concerns that we talk about here as members of the Sentencing Commission. So, my thought was maybe, we provide the report, it's a bigger or more expansive report. So, you've got the part that complies with the current existing statutory requirements, but then provide a recap or something about the discussions we've been having on this committee like, Mr. Jordan just presented that his concerns about the numbers, and expanding the formula, and do some sort of recap of that. And then, have the focus of the report be a request to the Legislature to expand the scope of this report, to allow NDSP to do a deeper dive into the data and have a report that says, you know we have an increase in property crime, but a decrease in penalties, these are the data points that we can't get that are missing. So, you know, at best we can say maybe there's a correlation, we're not really sure. So, maybe it's stepping back, and working on a report -- and you know, of course I say this at the 11th hour -- and working on a report that is more representative of the work of the Sentencing Commission, and the sort of statutory flexibility needed by the Sentencing Commission moving forward to be able to provide data points that collectively we are more confident in.

Chair Herndon: All right. Evie Grosenick?

Ms. Evelyn Grosenick: Thank you. I like John's initial -- I'm sorry -- John McCormick's initial recommendation and I might have gotten this incorrect, but use the original report and include the fact that the Commission overall had concerns about whether or not our charge in doing this accurately, is really going to give us information that is useful, right? And so, I think it's also really important that we focus on our charge here today. The Commission has a couple of different directives, one is, like, Mr. Jackson said, to make data-driven policy recommendations, but that's not what this report is. This is the report pursuant to NRS 176.01347 where the Sentencing Commission shall develop a formula, which has already been developed and voted on, for purposes of this report (doesn't mean we shouldn't look at it going forward, and refine it, and make it better, but for purposes of this report it has been developed, it has been adopted) and then, we are supposed to insert the numbers into that report and provide it. So, that is a Legislative issue, I think, if we need to change the formula, if different considerations need to go into it. I just worry we're getting a little bit outside of the scope of what we're here to do today for this report and what this report is for. So, I think John McCormick's suggestion provides a nice compromise of noting that we are following our mandate. If our mandate needs to change, that should come from the legislature and I don't think it's harmful to include the fact that we discuss, that we think there are some flaws in, or some information missing, but I think when we get into the weeds of this data point versus that data point, that's where we might fall into some pit falls.

Chair Herndon: All right. Thank you, Evie. I had a hand up as well and I'm not sure who it is, but the name on the screen is just John. Sorry, it's John Arrascada.

Mr. John Arrascada: Yeah. I actually took my hand down.

Chair Herndon: Okay.

Mr. Arrascada: I agree with John McCormick's comments.

Chair Herndon: Got it.

Mr. Arrascada: This is a legislative issue and also, Evie's comment. And so, my hand is down.

Chair Herndon: Thanks, John. Yes, Director Powers?

Director Powers: Thank you. I did want to just talk about here, this is the Projected Cost Avoided Report, we do have a Statement of Cost Avoided Report due on December 1st of each year. So, if some of the considerations can go into that report, it's a possibility. The other thing as we're talking about the Legislature and what data points we want to use moving forward, I did discuss at the last meeting that the data points that we are statutorily required to use, this is the last report we can use those in because there will not be the JFA 2017 numbers moving forward. So, we already do have to have a discussion about what we would like to use moving forward and how we want to present that to the Legislature to change that law.

Chair Herndon: Thank you. All right and Chris? DA Hicks?

DA Chris Hicks: Thank you. I just wanted to make a couple quick comments on everything suggested. I think John McCormick's suggestion is a good one, I think there should be a report that highlights all these various ideas and concerns, to some degree, our minutes do that -- but nobody really takes the time to go through the minutes, you know, except for us, of course, who are voting on them every week, but in any event or every meeting. -- So, I do think that's a good idea, but what I would counter some of these arguments with -- and I'm with Mr. Jordan and Mr. Jackson on this -- is, this \$640 million number was a speculative number, to the extent that Dr. Lanterman has laid out all the detail that we should do deep dives into this data -- which I totally agree with her -- that wasn't done back in the day when this projected number came out. And it seems that we are not avoiding all those costs as it was once said we would. And so, I believe to bolster how we're going to address these things moving forward and to just point out, to those that read this report because let's face it, this is what's going to be relied on is this particular report, that's statutorily required. It is important that the varying views of the Commission is highlighted in there and that's my final point is, this is framed, what we're talking about is merely considerations, this is something for all to consider, we are not drawing exact conclusions from one instance to AB 236, but what we are highlighting is considerations, caveats if you will, or disclaimers, that these are concerns that different members of Commission have that need to be considered and that should be looked at as we move forward, as Jorja just said. So, I think it's a stretch to say, "Oh, this directly draws false allegations towards AB 236 or there are so many variables we're not considering" that all may be true, but as this is framed in the report, these are considerations by the Committee members, we all have diverse backgrounds, we all have differing views, but these are the areas that need to be concerned and most importantly, as to Mr. Jackson's suggestion, this is actual data, this is actual data that we have, that we can put out there. So, if the Chair would allow me, I'd like to make a motion at this time, if that's okay, Chair Herndon?

Chair Herndon: Well, let me finish with everybody's comments. I had a couple that I was going to make as well, Chris, if that's okay.

DA Hicks: Okay. My apologies.

Chair Herndon: No, that's okay.

DA Hicks: So, in conclusion, I'm supportive of the suggestions and as I said, it's not an absolute directive that's being given by this Commission, these are merely considerations that by all counts, should be considered versus none of that's out there and as Mr. Jordan said, it can get political and all of the sudden what you're going to be hearing at the Legislature is \$640 million dollars was avoided and that is, I frankly, believe is not telling the entire story. So, thank you.

Chair Herndon: Thank you. Let me ask. John Arrascada, do you have your hand up again?

Mr. Arrascada: I do. Maybe what we're really talking about here and we all acknowledge when this Commission was first formed, we started at zero. So, the only data we had was from the, is it the CFJ [CJI] report, that was our working framework. Perhaps, the recommendation to the Legislature should be consider commissioning a new report based on the data that's been developed to this point. That could give us an expanded -- or Judge Herndon, as you mentioned -- an expanded look at things or can hone down on what our statutory duty is with the Department of Corrections only, but perhaps, suggesting that now that we have, I think it's five years of information and data that an updated report should be considered to be commissioned by the Legislature.

Chair Herndon: Let me ask. Thank you, John. Let me ask Director Powers because I don't disagree with the idea, John McCormick, that you raised and that I think some of the people that have spoken since kind of dove tailed into somewhat, but would that be more appropriate for the statement, Jorja? Then for this report. Which to me, is more of a this a kind of a potential numbers report.

Director Powers: Yes. I do believe that would be something we should consider that I can write up and we'll start talking about in the upcoming months for the December report, for the Statement of Cost Avoided to again, change things during the next legislative session. This is the Projected Report that uses the data points that were asked for in statute and so, yes.

Chair Herndon: Okay. And so, that might be a more appropriate time to, for instance, make recommendations as, John Arrascada, just mentioned about, hey, we might need some changes so we can do our job better moving forward. As well as, maybe, a more appropriate time to reflect a number of the discussion topics and various concerns that people have about how we're kind of calculating things, what they actually represent, what deeper data points what might, you know mean to the overall numbers. Yeah?

Director Powers: Yeah. If you're speaking to me, yes.

Chair Herndon: Yes.

Director Powers: I do believe that. I also want to add here, and I know that we do talk about the \$640 million in the beginning, but just as this is how it started. Our Projection of Cost Avoided, even though it does use those projected prison population numbers are only inmate-driven costs. So, it's approximately an average of 13% of their budget, it is not the whole budget. So, I just wanted to point that out.

Chair Herndon: Thank you. So, the other thing I would say is, understanding what this is, versus what the statement is. I agree and I don't know actually that I think after listening to everybody there should really be a lot of disagreement about a couple of things. I agree that our considerations are just things that we're telling as part of this report, so that somebody that has the report and is looking at the numbers can put some understanding of a couple of things in there. Pursuant to 176.01347, we are to use the 2018 prison population and the actual prison population now as part of our calculation of costs. Mark's data point number two, that just says, here's the population in 2018 and here's the population now. To me, is very necessary, that's kind of part of what we're supposed to be using. So, we give the report, we tell people what the population was. The other data point that I would want to know receiving this, is what is the prison's budget. Again, I would think 2018 and now would be important. Beyond those, I agree we shouldn't really be arguing or pointing out any particular examples because we don't have other examples. So, for instance, when we talk about costs, yes, I think there could be an increase in cost dramatically based on health issues with inmates, based on what Mr. Jordan said about, hey, we're going to need to increase the

budget because we have HVAC remediation to do in the prison system. So, without really going into everything, we can't go into anything. But I think we do, we should have as part of this report telling people, here's the population, here's the budget. Now, Legislature if you want to take this, and dig down further, and kind of figure out what these numbers mean, and what if anything you should do or not do. Then, the Legislature is in a much better position to do that, and much more appropriately positioned to do that, than I think we are. The data point number four on societal costs kind of delves a little bit into more of an argument about what is or isn't really in there, and to me, that's more of a thing that we could include in the statement at the end of the year as opposed to just the number thing. And then, in the first data point, I don't really have any problems with encumbered or available, I don't have a problem with tangible or measurable, but thereafter, where it says, "but represents future savings" I would just say, "represents potential future savings" and end it there, because I think that last part of what Mark added is a little more of an argument about you know, what it really means with the 2017 JFA. But point being, putting some numbers in there, in the considerations, to me, isn't really an argument about anything and it's not the time to delve into what every one of those numbers means, it's to give them to somebody that's getting the report about a number. So, that's all I had to say. So, let me go back to Chris who wanted to make a motion or an amendment, I'm not sure. Chris, why don't you go ahead.

Mr. McCormick: Chair, I think Ms. Murray has a comment.

Chair Herndon: I'm sorry, Julia. I didn't see your hand.

Ms. Julia Murray: That's okay. I just wanted to super briefly respond to what you actually just raised Chair Herndon. I fully take no issue with a statement of a fact, the population was X, the population is X. The issue and I'll specifically go to item number three, the issue is, comes in with the second sentence, you have a fact.

Chair Herndon: Julia, let me interrupt you. If we – and I apologize – if we get to the point of voting on each of these, I would take out the second sentences in both of those two points.

Ms. Murray: Okay. Then, I think we're on the page. So, I'll let it go because I think when we're evaluating the facts, we're exceeding the scope here and that's really all I wanted to get to.

Chair Herndon: Okay. All right. Chris?

DA Hicks: Thank you. So, I would make motion that the Commission adopt bullet points one, two, and three made by District Attorney Mark Jackson, but I would make as part of my motion that the ending of bullet point one where after the comment it says, "but represents future projections based on hypothetical numbers adopted by JFA in their 2017 projections" to read, rather "but represents future savings (period).", as Chair Herndon, just pointed out. Additionally, as to bullet point number three, I would recommend that we eliminate the second sentence as part of our adoption of bullet points one, two, and three recommended by DA Jackson. I hope that is clear for everybody. It is based on the recommendations just made by the Chair and all the considerations of the Committee members. So, I can clarify if necessary.

DA CHRIS HICKS MAKES A MOTION THAT THE COMMISSION ADOPTS BULLET POINTS ONE, TWO, AND THREE MADE BY DISTRICT ATTORNEY MARK JACKSON. BUT CHANGE THE ENDING OF BULLET POINT ONE WHERE AFTER THE COMMENT IT SAYS, "BUT REPRESENTS FUTURE PROJECTIONS BASED ON HYPOTHETICAL NUMBERS ADOPTED BY JFA IN THEIR 2017 PROJECTIONS" TO READ, RATHER "BUT REPRESENTS FUTURE SAVINGS (PERIOD)." AS TO BULLET POINT NUMBER THREE, ELIMINATE THE SECOND SENTENCE AS PART OF OUR ADOPTION OF BULLET POINTS ONE, TWO, AND THREE RECOMMENDED BY DA JACKSON.

Chair Herndon: So, let me just ask Mark or Chris to make sure. So, you're moving to adopt item number one with the word's tangible or measurable, or the words encumbers or available that Jorja originally used?

DA Hicks: I was moving to adopt it with tangible or measurable funds.

Chair Herndon: Okay.

DA Hicks: "But represents future savings" as was originally in there and eliminating the remainder after savings.

Chair Herndon: All right. And were you inserting the word, potential, before future savings that I was discussing or leaving that out?

DA Hicks: I'm sorry. Yes, potential.

Chair Herndon: Okay. And then, on number two eliminate the second sentence on that one or is your proposal, your motion to leave that second sentence in on that one?

DA Hicks: My proposal was to leave that in, but take out the second sentence, as Ms. Murray just raised, in suggestion number three.

Chair Herndon: Okay. So, let's do this. Let's break it down with each one. So, let's start with we have a motion to approve bullet point number one, that we just discussed, that would say, "There are difficulties avoided costs as it does not designate tangible or measurable funds, but represents potential future savings." Do we have a send to adopt one with that language?

DA HICKS MAKES A MOTION TO APPROVE BULLET POINT NUMBER ONE, THAT WE JUST DISCUSSED, THAT WOULD SAY, "THERE ARE DIFFICULTIES AVOIDED COSTS AS IT DOES NOT DESIGNATE TANGIBLE OR MEASURABLE FUNDS BUT REPRESENTS POTENTIAL FUTURE SAVINGS."

MICHELLE BAYS SECONDS THE MOTION

DA Jackson: Chair Herndon, to speed some of it up on number four. I will withdraw my fourth one.

Chair Herndon: Okay.

DA Jackson: And I will bring that back prior to our December meeting. I would ask the Executive Director to just include that.

Chair Herndon: Okay.

DA Jackson: As one of the recommendations for that December one, so.

Chair Herndon: Perfect. Thank you.

DA Jackson: Just focus on one, two, and three.

Chair Herndon: Okay. All right. Jorja, since I'm guessing we're not going to get unanimity on some of these or maybe I'm wrong, who knows? I'm trying to figure out the best way to actually do a vote on this, whether it's just to say, "hey, raise your hands and say aye" or do it by roll call vote. My sense is probably better to do them by roll call votes, but I'm going to defer to you.

Director Powers: That is what I had planned.

Chair Herndon: Okay.

Director Powers: Let's see how they start to go and then, we'll do the first one.

Chair Herndon: Okay. All right.

Director Powers: So, I did redline it here. You can see my screen. So, for number one, that's what we're voting on.

Chairman Christopher DeRicco: I believe we have one error in the correction you made there.

Director Powers: Okay. Let me know.

Chairman DeRicco: It says, "But represents future potential future savings"

Chair Herndon: There you go.

Director Powers: There we go. Thank you. All right.

Chair Herndon: Let's go ahead and do a roll call on that as it appears on the screen.

MOTION PASSES

(ROLL CALL CONDUCTED BY DIRECTOR POWERS)

Chair Herndon: Got one. Perfect. All right. So, let's jump number two because there may be concerns about the second sentence in number two, and we're going to number three that references the budget, but deleted that second sentence. So, it just says, "the NDOC budget for fiscal year 2018 was -- that number -- the NDOC budget for FY 2025 is, as a number (period)." So, the motion is to just approve that sentence of that bullet point. And it now appears on your screen that way as well. All right Jorja let's go ahead and do a roll call on that one.

DA HICKS MAKES A MOTION TO APPROVE BULLET POINT NUMBER THREE

Vice Chair Brady: No. Only because I don't think those are the actual budget numbers.

MOTION PASSES

(ROLL CALL CONDUCTED BY DIRECTOR POWERS)

Chair Herndon: Okay. We'll go to bullet point number two. The motion standing is to approve it as it's listed in your original consideration that came out with the second sentence.

Director Powers: Okay.

DA Hicks: Chair Herndon, can I amend my motion?

Chair Herndon: Sure.

DA Hicks: I would -- as to the second recommendation -- I would move that we adopt it, but we omit the second sentence of "this is as a 20.95% decrease in the inmate population".

Chair Herndon: Okay. All right. I appreciate that. And Ms. Bays, I think you second the original motion, do you accept that amendment?

Chief Michelle Bays: Yes. Thank you, sir.

Chair Herndon: Perfect. Thank you. Okay, with that amendment that it now appears on your screen as just the first sentence of the proposed bullet point listing the NDOC population in 2018 and as of July 1st of this year. So, Jorja if you'll go ahead and call roll on that one.

DA HICKS MAKES AN AMENDMENT AND A MOTION TO ADOPT THE SECOND BULLET POINT BUT WE OMIT THE SECOND SENTENCE OF THIS IS A 20.95% DECREASE IN THE INMATE POPULATION.

CHIEF MICHELLE BAYS SECONDS THE MOTION

MOTION PASSES

(ROLL CALL CONDUCTED BY DIRECTOR POWERS)

Chair Herndon: All right. And then, we will note for the record that Mark has withdrawn his request on bullet point number four and that can be renewed later on in the year, when we start addressing what's going to go into our statement that will be prepared in advance of the December 1st deadline. So, let me move to.

Mr. Arrascada: Chair, I have a point of order. I just want to clarify when we voted on number one, that the anecdote that reflects data shows, the populations slow and steady decrease, that was not part of the motion and that was struck, is that accurate?

Chair Herndon: That was a separate data point I believe that Jorja included in her original proposal. Right, Jorja?

Director Powers: The 29%?

Chair Herndon: No, in between bullet points one and two with Mark's proposed changes. There's a bullet point that says, "data shows the NDOC population began a slow, but steady decrease in 2017".

Director Powers: That was part of the original report.

Chair Herndon: Right. So, that was not part of the motion Mark, or John, excuse me.

Mr. Arrascada: Understood.

Chair Herndon: All right. So, let me move back to Assemblywoman Considine. My sense is having just approved the bare facts of bullet points two and three, that would have covered your concern about why you were proposing that we do something, and what you listed as five, six, and seven, but please correct me if I am wrong.

Assemblywoman Considine: That is correct. If we can move five, six, or seven to the discussion that we'll have for the Statement of Cost Avoided Report for December.

Chair Herndon: Okay.

Assemblywoman Considine: That would be better.

Chair Herndon: Great. Okay. So, we'll note that for the record as well and then, we'll move to we have bullet point eight, nine, ten, and eleven on page five of the report, where there were some suggested changes Mark, in terms of, where we say specifically, the Commission recommends. So, bullet point number eight simply inserts the word Sentencing before Commission and then includes the words "the following", after recommends. Just by kind of a hand or aye, nay vote. Does anybody want to make a motion on bullet point number eight, first?

DA Hicks: I'll keep moving forward with my motions, Chair. Thank you. I'll move to adopt bullet eight.

DA HICKS MOVES TO MAKE A MOTION TO ADOPT BULLET POINT NUMBER EIGHT

JOHN MCCORMICK SECONDS THE MOTION

MOTION PASSES

Chair Herndon: Okay. So, that's approved as well, Jorja. And then, bullet point number nine, proposes a change rather than saying, "continuing to fund three million to the Nevada Local Justice Reinvestment Coordinating Council" it makes a change to say, "continuing financial support of not less than 3 million". So, it leaves open the possibility of proposing more funding to that Coordinating Council. Go ahead.

Mr. McCormick: Sorry, Chair. I'm going to move we approve the change in bullet number nine.

JOHN MCCORMICK MOVES TO APPROVE BULLET POINT NUMBER NINE, PROPOSES A CHANGE RATHER THAN SAYING, "CONTINUING TO FUND THREE MILLION TO THE NEVADA LOCAL JUSTICE REINVESTMENT COORDINATING COUNCIL" IT MAKES A CHANGE TO SAY, "CONTINUING FINANCIAL SUPPORT OF NOT LESS THAN 3 MILLION".

VICE CHAIR JONES BRADY SECONDS THE MOTION

Chair Herndon: Thank you. And I should have done this with eight, but is there any discussion on bullet point nine before we take a vote? Don't hear any. All right. Thank you.

MOTION PASSES

Chair Herndon: All right, that passes as well. Thank you. Bullet point number ten, proposes a change to the language that said, "also, a significant amount of the remaining costs avoided should be invested, in efforts to increase transitional housing opportunities for justice-involved individuals" the change would be, to say, "continued financial support utilizing actual cost savings, if any, to increase transitional housing opportunities for justice-involved individuals".

DA Jackson: Chair Herndon?

Chair Herndon: Yeah?

DA Jackson: I was going to ask.

Chair Herndon: Go ahead.

DA Jackson: I want to remove based upon the previous discussion, remove the "actual cost savings" portion of that.

Chair Herndon: Okay.

DA Jackson: And just be I guess "continued financial support to increase transitional". So, remove "actual cost savings (comma) if any (comma)"

Chair Herndon: So.

DA Jackson: The reason I did that, is that I didn't know, and this came up at previous discussion the way that it read is that "also, a significant amount of the remaining cost avoided should be invested in efforts". So, I don't necessarily want to just tie it to that. I think all of these three of these are very important and that's why I made the recommended the previous change and I want to try and capture that here also.

Chair Herndon: So, am I correct then, that your change in bullet point ten, is really about the idea including the word significant?

DA Jackson: Excluding the word significant.

Chair Herndon: Your concern is with including that word about you know, what we should do with a significant amount as opposed to just reflecting, we should be looking at continued financial support for this rather than, restricting it to the significant amount?

DA Jackson: Yes.

Chair Herndon: Okay. All right. Do we have a motion to approve the bullet point number ten as modified by DA Jackson?

DA HICKS MOVES TO APPROVE THE BULLET POINT NUMBER TEN AS MODIFIED BY DA JACKSON

SENATOR KRASNER SECONDS THE MOTION

Chair Herndon: Any discussion on bullet point ten?

Director Powers: Can I make sure that what's on the screen is what DA Jackson had in mind?

Chair Herndon: Let's see, "continued financial support to increase transitional housing opportunities for justice-involved individuals". So, yes, it would be, "Sentencing Commission recommends the following (bullet point) continued financial support to increase transitional housing opportunities for justice-involved individuals". Okay, does anybody else have any comments?

Vice Chair Brady: Thank you, Chair Justice Herndon. Can we just remove the word continued? It makes it sound like we're doing so much for transitional housing for justice-involved individuals. We're doing some things, but just can we just have financial support utilize, you know? And then, the rest, I just, I don't know, having the word continued in there, just to me implies that we're doing a whole bunch. That's my comment. Thank you.

Mr. Arrascada: Perhaps take out continued and put "increased financial support to transitional housing opportunities for justice-involved" and so, the increased to the beginning was in continued.

DA Jackson: I like what John Arrascada said, I think that best captures what I was trying to do.

Chair Herndon: Okay. So, Chris, will you accept that amendment in your motion? So, it would say increase financial support?

DA Hicks: Yes. I accept that amendment and move to adopt as is on the screen.

DA HICKS ACCEPTS AMENDMENT TO MOTION TO SAY INCREASED FINANCIAL SUPPORT

Chair Herndon: All right. And Senator Krasner, would you accept that as your second to that motion?

Senator Krasner: Yes. I second the motion.

SENATOR KRASNER SECONDS THE AMENDED MOTION

Chair Herndon: Thank you. Any further comment from anyone about bullet point number ten, now being "increased financial support to increase transitional housing opportunities"?

DA Jackson: I think when John Arrascada said that he removed the second increase.

Chair Herndon: Okay. I'm sorry John. Was that correct?

Mr. Arrascada: That's accurate.

Chair Herndon: “Increased financial support to transitional housing opportunities”. Okay, I’m sorry.
MOTION PASSES

Chair Herndon: Okay. That passes as well. And then, bullet point number eleven. Mark, is there anything you wanted to say about that before I ask for a motion?

DA Jackson: Yes. I’m not saying that this is more important in any of them, but I put a high level of importance on this. So, actually if we can remove after financial support that comma in “an amount to be determined”.

Chair Herndon: Okay.

DA Jackson: To “an amount to be determined” but I’m hoping that everyone would be on board about, I really hope that our legislature will take heed of this recommendation and support some funding for the respective data systems for both the Department of Corrections and P&P.

Chair Herndon: Okay. Yeah, I thought the part that said the “Commission continues to recommend” was somewhat duplicitous from what we are saying up top which is the “Commission recommends”. So, all right, that would be as amended on our screen it would be “financial support for the Department of Corrections and the Division of Parole and Probation”, and then, on. Do we have a motion to approve that bullet point number eleven as proposed by DA Jackson with the amendment he just made?

CHIEF MICHELLE BAYS MAKES A MOTION TO APPROVE THAT BULLET POINT NUMBER ELEVEN AS PROPOSED BY DA JACKSON WITH THE AMENDMENT HE JUST MADE

DA HICKS SECONDS THE MOTION

Chair Herndon: Any discussion or comments about the current motion?

Senator Scheible: I don’t mean to be nitpicky, but I mean the point of this report is to discuss cost savings. So, when we remove, reinvest the saved costs from points ten and eleven. Then, don’t we just kind of have some general recommendations from the Sentencing Commission that would be appropriately placed in another report, or BDR, or other recommendations to the Legislature?

Chair Herndon: So, I’m sorry Senator, you want to leave some language in ten or eleven that reflects the cost avoided savings?

Senator Scheible: In both of them. I think that the purpose of having these recommendations in this report as opposed to a different report, is to specifically outline that we are utilizing the cost savings, or the costs avoided to reinvest in traditional housing and technology upgrades. If you take out the clause about investing a portion of the costs avoided, then it just becomes a general recommendation to the Legislature.

Chair Herndon: Okay. All right, does anybody else have any comments about that?

DA Hicks: I see what Senator Scheible is saying and certainly respect that, but I think the title of the report, Projected Cost Avoided and the tenor throughout still maintains that is why we’re suggesting this, it’s just not as overt as it was before. So, we’ve already passed ten. So, that’s my two cents, I certainly appreciate what she’s saying, but I don’t think it’s fatal to the recommendations.

Chair Herndon: Let me ask this, is this might kind of address what you’re getting at Senator Scheible. What about if we made up at bullet point number eight, if we made a further modification to say specifically, “the Sentencing Commission recommends the utilization of cost avoided savings for” and then, we have our below bullet points.

Senator Scheible: I think that would work.

Chair Herndon: Because then it would cover all three of them.

Mr. McCormick: If you want a motion on including that, I will make one.

JOHN MCCORMICK MAKES A MOTION TO AMEND BULLET POINT NUMBER EIGHT AND MAKE THE FURTHER MODIFICATION TO THE FIRST SENTENCE TO SAY SPECIFICALLY, "THE SENTENCING COMMISSION RECOMMENDS THE UTILIZATION OF COST SAVINGS FOR".

Chair Herndon: Thank you. So, let's hop off number -- well actually, let's finish up knowing that we're, well no -- I guess we should hop off eleven. Let's go back up to eight and yes, thank you, John, for making the motion. Do we have a second on making the motion to change that first sentence to be specifically, "the Sentencing Commission recommends utilization of costs avoided" for the following?

ASSEMBLYWOMAN CONSIDINE SECONDS THE MOTION

Chair Herndon: Thank you. All right, any discussion on that motion?

Ms. Murray: I have a question?

Chair Herndon: Sure.

Ms. Murray: I have a question for the Department of Sentencing Policy. Jorja, in regard to number nine, the current three million that was invested in the Commission that's being overseen by the Coordinating Council was that money that came out of quote/unquote costs avoided or was that a direct allotment of funds that were awarded to the Commission? Because I think that that money that we talk about in item, now number one under these bullet points is incredibly important, and incredibly important to the work of this Commission, and I don't want to see that cut out by someone coming into the next session saying, "well, we don't have a tangible and measurable cost avoided before us on this session and thus, we are not allotting you any money into the Coordinating Council for grants that further the goals of this Commission". So, could you just clarify that for us before we vote on these words.

Director Powers: It was an individual appropriation. We talked about it and did not get the money with the costs avoided recommendations and so, we got an appropriation through a bill from Assemblyman Yeager.

Ms. Murray: May I ask a follow up, Chair?

Chair Herndon: Yeah, absolutely. It's a very good point, Julia.

Ms. Murray: Does the language that we are currently about to vote on, adding it to that first sentence cause you any concerns with the ability to have continued and/or increased funding to bullet point number one?

Chair Herndon: Well, I would love to say no, but proactively, maybe we should modify the proposal we are going to vote on further to say, "the utilization of costs avoided" -- I think it should have saving in there as well Jorja -- but "the utilization of cost avoided savings where applicable". I mean I don't obviously want to limit somehow the Coordinating Council funding being eliminated, right, by somebody saying, "well, that was only supposed to be utilized of cost avoided savings as opposed to a separate grant" or we can just scrap what we are talking about in the modifications of that first sentence and go back to Senator Scheible's concerns about having it added into where the proposed ten and eleven are.

Senator Scheible: So, I'll just jump in here since I was the one who opened this can of worms. I agree, maybe the person who made the motion to return to point eight will withdraw that motion and I mean, to be frank, we can vote on ten and eleven as they are. I guess what I was trying to say is, I just don't see the point of removing the word -- kind of what we're going in eleven -- we're just removing the word actual, or you know -- what is it -- portion of cost avoided, we're just removing the term portions of cost avoided from a

report about cost avoided. I don't see the point in doing that, but you know, the Commission is going to vote on it, so let's just go ahead.

Chair Herndon: Okay. So, let's do this, John, will you withdraw your motion on the first sentence?

JOHN MCCORMICK WITHDRAWS MOTION ON BULLET POINT EIGHT'S FIRST SENTENCE

Chair Herndon: Thank you. All right. And ten, actually we voted on it, approved it already. So, we would have to go back to that, but it sounds like Senator Scheible you're saying you're okay with that as it is?

Senator Scheible: Yes, I am. Thank you.

Chair Herndon: Okay. So, on eleven, Mark what about if we modify that to say financial support from a portion of the costs avoided for the Department of Corrections and the Division of Parole and Probation, etc.

Mr. McCormick: Chair? Not to cut Mr. Jackson off, but we could say, "financial support from costs avoided or any other source the Legislature deems appropriate", I mean.

Chair Herndon: Well, but that's kind of getting outside of what our costs avoided job is here, I think.

Mr. McCormick: Okay. Yeah, no.

Chair Herndon: I mean I agree with you, but I think it's probably better to cabin this to just what we're talking about.

DA Jackson: Chair Herndon? I support your recommendation.

Chair Herndon: Okay. Thank you. So, Jorja, I think it would be, "financial support from a portion of the costs avoided be given to the Department of Corrections and the Division of Parole and Probation". Okay. All right, do we have a motion to approve what's on your screen as bullet point number eleven or proposal number eleven?

VICE CHAIR BRADY MOVES A MOTION TO APPROVE BULLET POINT ELEVEN

CHIEF BAYS SECONDS THE MOTION

MOTION PASSES

Chair Herndon: Which I think finishes your report for you, right Director Powers?

Director Powers: Yes, I believe so. I just want to make sure eight is going to pass as it was originally voted upon.

Chair Herndon: Yes. Yes, we went through that one.

Director Powers: All right.

Chair Herndon: And I probably should have started out by saying, you did a terrific job of producing the report despite our peevs, and peccadillos, and our little changes, and whatnot, which all come from a place of good concern and good thought. I really appreciate you putting all this together for us, you did terrific job. So, thank you.

Director Powers: Thank you.

Chair Herndon: Okay. And do we have anything further on that? I think that completes that agenda item since we've got that report now in a shape to be approved and filed.

DA Jackson: Chair Herndon? I think we do have to have a motion to approve the report now as amended.

Chair Herndon: As overall? Yes, you're right. I'm sorry. Kind of flew right past that. Will anybody make a motion to approve the entire report as amended today?

DA MARK JACKSON MOVES TO APPROVE THE COST AVOIDED REPORT AS WRITTEN

SENATOR KRASNER SENCONDS THE MOTION

MOTION PASSES

(ROLL CALL CONDUCTED BY DIRECTOR POWERS)

Chair Herndon: Okay, now we've got it all done for you, Jorja. Thank you, again. And thank you, Mark. I kind of blew right past that. Okay, that's going to close out agenda item number five.

6. Discussion of Potential Topics and Dates for Future Meetings

Chair Herndon: Which I think is going to get us back to our future meetings discussion, which is agenda item number six. We don't have a date on our September meeting, right now, do we?

Director Powers: We do not. There have been a couple of hiccups, but we do plan to have one and it should be on the books by next week.

Chair Herndon: Okay. So, we'll go ahead and leave that for right now. We can email the Commission members, and let them know the date we're looking at, and have a discussion about that as necessary. And then, we have our November date set for November 1st, yes? Okay. And then, what date is it the November 1st date by which we need to approve the statement?

Director Powers: Yes.

Chair Herndon: Okay. And so, do you have some guesstimate idea of when you think you're going to get a rough kind of draft out to everybody on that?

Director Powers: That will be at the September meeting.

Chair Herndon: Okay.

Director Powers: Because we can't look at it as a group without public involved.

Chair Herndon: Got it. Okay. So, let's just kind of to everybody's point about things they might want to include in the statement, ideas that they have, things that tailor into what Mark was saying today, things that tailor into what Dr. Lanterman was saying today, I'm just going to encourage everyone to kind of start putting together some ideas with some brevity in mind. Obviously, we don't want that, we don't want to include things with the statement that kind of bogs itself down a little bit, it should be just kind of discussion points, type things that we're including in there. But I would go ahead, and start getting those prepared in your own mind, so that once we get the September meeting in place, and we get together in September, and we start discussing the statement that's been provided, we'll be able to have some intelligent conversations about those as well, so, that we can meet our deadline without any difficulties. Okay, does anybody else have anything about future meetings? All right, we'll close agenda item number six.

7. Public Comment

Chair Herndon: And we're going to move, Jose, to agenda item number seven, which is public comment, again. Do we have any folks online that wish to make public comment?

Mr. Sepulveda: We have no callers, Chair.

Chair Herndon: Okay. Thank you. So, we'll go ahead and close agenda item number seven, public comment.

8. Adjournment

Chair Herndon: And with that we will adjourn our meeting for today. I appreciate everybody's time. Look, I actually expected this to take a lot longer than it did to work through all of those things, but I appreciate everybody's comments, and their concerns, and their getting prepared ahead of time, so that we could have a good robust discussion about this and getting it to a point of getting approved for the Director. So, with that, we'll go ahead and adjourn our meeting, and I will see everybody again in September. So, thank you.

DRAFT