

MEETING NOTICE AND AGENDA

Name of Organization: Nevada Sentencing Commission (NRS 176.0133)

Date and Time of Meeting: Wednesday, August 29, 2018
9:00 A.M.

Place of Meeting: Legislative Building
Room 4100
401 South Carson Street
Carson City, Nevada

Note: Some members of the Nevada Sentencing Commission may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following location:

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

If you cannot attend the meeting, you can listen or view it live over the Internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "[Calendar of Meetings-View.](#)"

Note: Please provide the secretary with electronic or written copies of testimony and visual presentations if you wish to have complete versions included as exhibits with the minutes.

AGENDA

Note: Items on this agenda may be taken in a different order than listed. Two or more agenda items may be combined for consideration. An item may be removed from this agenda or discussion relating to an item on this agenda may be delayed at any time.

I. Call to Order

II. Roll Call

III. Public Comment

(Because of time considerations, speakers are urged to avoid repetition of comments made by previous speakers. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by e-mail, facsimile, or mail before, during, or after the meeting.)

*For
Possible
Action*

IV. Approval of the Minutes of the Joint Meeting of the Nevada Sentencing Commission and the Advisory Commission on the Administration of Justice held on August 2, 2018

*For
Possible
Action*

V. Introductory Remarks
Justice James W. Hardesty, Chair

*For
Possible
Action*

VI. Work Session - Discussion and Possible Action on Recommendations Relating to:

A. Data Oversight

B. Criminal Justice Impact Statements

C. Justice Reinvestment Initiative and Sentencing Credits

D. Recidivism

E. Funding for the Central Repository for Nevada Records of Criminal History

F. Funding for the Division of Parole and Probation, the Department of Corrections and the State Board of Parole Commissioners

G. Funding for the Specialty Court Program

The Work Session Document Summary of Recommendations is attached below. The full document with supporting attachments is available on the meeting page of the [Nevada Sentencing Commission](#), or a written copy may be obtained by contacting Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau at (775) 684-6830.

VII. Public Comment

(Because of time considerations, speakers are urged to avoid repetition of comments made by previous speakers. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by e-mail, facsimile, or mail before, during, or after the meeting.)

VIII. Adjournment

Note: We are pleased to make reasonable accommodations for persons with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Jordan Haas of the Legal Division of the Legislative Counsel Bureau, by email to jordan.haas@lcb.state.nv.us, in writing, addressed to Jordan Haas, Legal Division, Legislative Council Bureau, 401 South Carson Street, Carson City, Nevada 89701-4747, or by phone at (702) 486-3944 as soon as possible.

Notice of this meeting was posted in the following Carson City and Las Vegas, Nevada, locations: Blasdel Building, 209 East Musser Street; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; Legislative Counsel Bureau, Las Vegas Office, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was e-mailed, faxed or hand delivered for posting to the following Carson City and Las Vegas, Nevada, locations: Capitol Press Corps, Basement, Capitol Building, 101 North Carson Street; Clark County Government Center, Administrative Services, 500 South Grand Central Parkway; and Capitol Police, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature's website at www.leg.state.nv.us.

Supporting public material provided to members of the Commission for this meeting may be requested from Jordan Haas of the Legal Division of the Legislative Counsel Bureau at (702) 486-3944. Any such material will be made available at the following locations: Meeting locations and the Nevada Legislature's website at www.leg.state.nv.us.



WORK SESSION DOCUMENT

Nevada Sentencing Commission
[Nevada Revised Statutes 176.0133]

August 29, 2018

The following “Work Session Document” was prepared by staff of the Nevada Sentencing Commission (“Commission”). (NRS 176.0133) The document contains seven recommendations that were presented during hearings or submitted in writing during the course of the 2017-2018 legislative interim. Throughout the interim, the Commission held three substantive meetings and a joint meeting with the Advisory Commission on the Administration of Justice (NRS 176.0123) in order to consider and meet its statutorily prescribed duties. The meetings included presentations from the perspective of the Executive Director of the Robina Institute of Criminal Law and Criminal Justice (Past President of the National Association of Sentencing Commissions), the Virginia Criminal Sentencing Commission, the North Carolina Sentencing and Policy Advisory Commission, the Connecticut Sentencing Commission, the Utah Sentencing Commission and the Oregon Criminal Justice Commission, as well as the Nevada Department of Corrections, the Division of Parole and Probation of the Department of Public Safety, the Central Repository for Nevada Records of Criminal History, members of the Judicial Branch and numerous other criminal justice experts and stakeholders.

Additionally, the Commission was instrumental in Nevada being selected for technical assistance through the Justice Reinvestment Initiative (JRI), conducted by the Crime and Justice Institute (CJI) at Community Resources for Justice. The goal of the JRI process is to provide local, state and national criminal justice organizations with nonpartisan policy analysis and technical assistance to reduce recidivism, cut costs and promote public safety. The staff of CJI have been meeting with Nevada criminal justice stakeholders and have assisted in framing some of the issues contained in this work session document; however, the majority of the JRI recommendations will be identified and defined after more extensive data collection, research and policy analysis. The final recommendations of the JRI process will be presented to the Advisory Commission on the Administration of Justice in January 2019.

The possible recommendations listed in this document do not necessarily have the support of the Commission. Rather, the recommendations are compiled and organized to assist the Commission members for discussion and voting purposes during the work session. The Commission may adopt, amend, reject or further consider any recommendation. Commission members should be advised that Legislative Counsel Bureau staff may, at the direction of the Chair, coordinate with interested parties to obtain additional information for drafting purposes or to be included in the final report. The individual proposer or joint proposers of each recommendation are referenced in parentheses after each recommendation.

Pursuant to NRS 176.0134, the Commission is charged with examining various aspects of the State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors, and prior to the next regular session of the Legislature, must prepare and submit to the Director of the Legislative Counsel Bureau a comprehensive report including the Commission's findings and any recommendations for proposed legislation. The Commission is statutorily authorized to request (on or before September 1 preceding a regular legislative session) the drafting of not more than one legislative measure pursuant to NRS 218D.216; however, subject to the approval of the Legislative Counsel, some recommendations may be combined into a single bill draft. Additionally, individual legislative sponsors or committee chairs may choose to sponsor recommendations for legislation.

For purposes of this work session document, the recommendations have been organized by possible action type, but are not listed in preferential order. It should also be noted that any potential recommendations listed may or may not have a fiscal impact. Potential fiscal impacts have not been determined by staff at this time, and any recommendation for proposed legislation may result in a fiscal note and/or the necessity for a general fund appropriation. Finally, although possible actions may be identified within each recommendation, the Commission may choose to recommend any of the following actions: (1) draft legislation to amend the Nevada Revised Statutes; (2) draft a resolution; (3) draft a letter encouraging or supporting a particular recommendation; or (4) include a policy statement of support in the final report.

RECOMMENDATION NO. 1 — Draft legislation revising the duties of the Nevada Sentencing Commission to statutorily require the Commission to function as an independent and standalone analytic and oversight body for sentencing and related criminal justice data. The Commission staff would be required to facilitate the collection and aggregation of data deliverables (from the courts, corrections, parole and probation and other agencies of criminal justice) in an effort to further enable the Commission to efficiently and effectively evaluate criminal justice practices across the State. The legislation may include the identification of certain variables or data sets not currently collected or shared across Nevada's criminal justice agencies, along with requirements and timelines for their definition, collection and aggregation. Once in place, the Commission will have the necessary data to perform its statutory duties, including, without limitation: the evaluation of statewide sentencing practices, the potential use of sentencing guidelines, the use of mandatory sentencing, enhanced penalties for habitual criminals and the identification of other sentencing and corrections practices.

This recommendation would serve to further the legislative findings and declarations contained in NRS 176.0131 in an effort to ensure that sentencing and corrections policies embody fairness, consistency, proportionality and opportunity. It would also enable a coordinated and systematic approach by the Commission to make data driven sentencing and corrections policy recommendations to the Nevada Legislature.

Additionally, this legislation would provide that the Commission staff function as an independent agency located in the executive branch of state government. The Commission membership would have the same statutory membership pursuant to NRS 176.0133, but would be staffed by newly established full-time independent nonpartisan staff. This proposal would include a general fund appropriation request for startup costs and ongoing staffing of approximately \$ _____ for the FY 2020-2021 biennium. (Commission)

Background Information for Recommendation No. 1

Tab A - Sentencing Commission Data Requests

Tab B - Chart of Sentencing Commission Staffs and Budgets

Throughout the interim, the Commission received testimony from numerous policy experts and agency officials on the need for increased data collection, data transparency and data predictability as it relates to the system of criminal justice. Presenters and Commission members alike acknowledged that such data is critical for policy makers to make data driven and results oriented criminal justice policy decisions.

At the Commission meeting held on November 27, 2017, Kelly Mitchell, Executive Director, Robina Institute of Criminal Law and Justice testified, “The most active and effective commissions are ones that serve as a central collection point for sentencing data and that begin to develop a database. This allows the commission to actually be a nonpartisan source of expertise so that the state and the commission can make data driven policy decisions. It is really important to have that independent, nonpartisan voice that can take the overview of what’s actually occurring within the state to provide an objective source of information.” Commissioner Bisbee then questioned whether “support staff being essential to these commissions” to which Ms. Mitchell replied, “Yes, I would say that is absolutely true, especially if the commission decides to take on that data-collection task. The support staff is really essential to building that database, tracking down information that maybe wasn’t supplied the first time, or missing information, writing data reports, writing information and then doing this fiscal impact function during the legislative session.” Chair Hardesty indicated, “On the issue of data collection, as some of us know from hearings in various committees and commissions, we do have this collection process. We also have some problems with it, and one of the issues I intend to have the Commission address is that whole process.”

At the meeting held on February 16, 2018, Commissioner Hicks asked Ms. Farrar-Owens, Director, Virginia Criminal Sentencing Commission, “. . . would it be your recommendation that we ensure we have a reliable criminal history system to base our scoring sheets on before we implement scoring sheets?” To which, Ms. Farrar-Owens responded, “I do think that would be an important element from any consistency and potential disparity point of view. Depending on the information that’s there versus not there in your criminal history system, I think it would be important for individuals’ criminal history to be scored consistently from offender to offender in different areas of the state.” Further, at the February 16, 2018, meeting, Chair Hardesty added, “What I find interesting is centralizing the research and data collection, because quite frankly, for a lot of our counties, certainly 15 and maybe 16 of the 17 counties in our state, collecting data and analyzing it is a real challenge fiscally. If the state were to, say, fund the AOC or a statewide agency to perform this service for the counties, it could be a tremendous step in being able to make good business decisions.” Mike Schmidt, Executive Director, Oregon Criminal Justice Commission, responded, “Our ability has really been enhanced by having access to our law enforcement data (LED) system. We have access to the court system where we get our conviction data, and then our department of corrections and parole and probation has a statewide case management system for anybody on felony supervision and/or in a prison. What we do as a commission is we merge all three of

those data sets into a bundle. We do matching across to make sure we can track people, and that's really been key, having all three of those."

Also, at the February 16, 2018, meeting, Commissioner Welborn stated, "I would really like to look at that data and for our state and really look at how or where these guidelines systems have actually resolved that problem in the states we're looking at." Commissioner Hicks added, "I'd give the same short answer to what Ms. Welborn gave, and that's yes. I think, in my opinion, a lot of the decisions we might have to make or recommendations we might make are going to be largely based on the data."

As with the Virginia and North Carolina Commissions, Chair Hardesty asked Mr. Schmidt, "And what is the gross amount of your commission's budget?" To which, Mr. Schmidt, stated, "In a biennium, we have 15 full-time equivalents, and we are, just for staff and not the grants and everything that I talked about, approximately \$4,000,000." Ms. Farrar-Owens stated, "For us as an agency of nine, almost all of our budget is for staff. Our budget started a little below \$1,000,000 and now it's a little above \$1,000,000." Michelle Hall, Executive Director, North Carolina Sentencing and Policy Advisory Committee, stated, "We have 10 full-time staff members, so we have 9 professional staff and 1 administrative secretary. Our budget is roughly just under \$1,000,000 annually, and that is primarily for staff, the same as Virginia."

Throughout the interim, numerous members of the Commission, voiced their concerns that additional data was needed before policy choices could efficiently and effectively be reached. In that vein, Chair Hardesty asked each member to provide his or her input on what data needs to be collected and studied. Staff then compiled those requests into the following list attached as **Tab A**. Additionally, Chair Hardesty directed staff to compile a list of all sentencing commission staff sizes and annual budgets (**Tab B**).

RECOMMENDATION NO. 2 — Draft legislation requiring the Nevada Sentencing Commission to issue a criminal justice impact statement. This legislation would amend the existing statutory fiscal note process to require the Fiscal Analysis Division of the Legislative Counsel Bureau to request a criminal justice impact statement from the Sentencing Commission for any proposed legislation increasing or newly providing for a term of imprisonment in the state prison, county or city jail or detention facility or making release on parole or probation less likely. The criminal justice impact statement would be similar to those produced by the Illinois Sentencing Policy Advisory Council, and would compile data from the courts, Division of Parole and Probation, Department of Corrections and other criminal justice agencies, as needed. The criminal justice impact statements would be required to identify any fiscal impact to the State, including any cost or savings, of any criminal sentencing policy change proposed by the Nevada Legislature. The criminal justice impact statements may also be required to include other criteria, such as whether the proposed legislation is likely to impact substance abuse treatment, mental health outcomes or have a disproportionate impact on race or gender.

This recommendation seeks to complement the duties of the Commission contained in subsection 1 of NRS 176.0134, which requires the Commission to "Advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors."

Additionally, and in conjunction with recommendation number 1, this legislation would provide that the Commission staff function as an independent agency located in the executive branch of state government. The Commission membership would have the same statutory membership pursuant to NRS 176.0133, but would be staffed by newly established full-time independent nonpartisan staff. This proposal would include a general fund appropriation request for startup costs and ongoing staffing of approximately \$_____ for the FY 2020-2021 biennium. (Commission)

Background Information for Recommendation No. 2

Tab C – 730 ILCS 5/5-8-8(f)

Tab D - Sample Illinois Criminal Justice Impact Statements

Throughout the interim, the Commission heard testimony from a number of other sentencing commissions that compile and prepare fiscal notes or impact statements for the Legislature’s review in making policy determinations impacting the criminal justice system. To this end, both North Carolina and Oregon testified to their fiscal note process. Mr. Schmidt indicated, “We do fiscal impacts, much like North Carolina was talking about. We are the agency that advises the legislature whenever they’re passing a new statute on what the potential impacts to our system might be. We also recently had the addition of racial and ethnic impacts on our agency, so upon request, the legislature could ask us, ‘Hey, we want to change this particular crime. What kind of impact would that have racially and ethnically in our system?’ That’s rather new. We’ve only performed three or four of those since its implementation, so it’s still pretty new for us.”

Current Nevada law requires the Fiscal Analysis Division to obtain a fiscal note on: (1) any bill or joint resolution which creates or increases any fiscal liability or decreases any revenue which appears to be in excess of \$2,000; and (2) any bill or joint resolution which increases or newly provides for a term of imprisonment in the state prison or makes release on parole or probation from the state prison less likely. (NRS 218D.430) Under certain circumstances, a fiscal note is also required from local government when a bill or joint resolution increases or newly provides for a term of imprisonment in a county or city jail or detention facility, or makes release on probation therefrom less likely.(NRS 218D.435)

In researching the fiscal note process undertaken by sentencing commissions across the country, staff became aware of the model undertaken by the Illinois Sentencing Policy Advisory Council. The concept for the Illinois Sentencing Policy Advisory Council (SPAC) was developed by the Criminal Law Edit, Alignment and Reform (CLEAR) Commission. The CLEAR Commissioners studied and reorganized the Unified Code of Corrections in an effort to make it less confusing and easier for the public and practitioners to use. That process led to the conclusion that, although many agencies collected statistics and data about sentencing in Illinois, no agency compiled sentencing data specifically to perform comprehensive analysis for reporting to policy makers. SPAC was created to collect, analyze and present data from all relevant sources to more accurately determine the consequences of sentencing policy decisions and to review the effectiveness and efficiency of current sentencing policies and practices. SPAC reports

directly to the Governor and the General Assembly. Attached as **Tab C** is the enabling legislation creating the SPAC. Attached as **Tab D** are two sample Illinois Criminal Justice Impact Statements.

RECOMMENDATION NO. 3 — Draft a letter to the Advisory Commission on the Administration of Justice, the Governor and the Legislature supporting the efforts of the Justice Reinvestment Initiative, including the support of any recommendations relating to the application of prison sentence credits. Such a recommendation may include a policy objective to make the calculation of sentence credits less complicated and more transparent for all parties involved in the criminal justice system. (Commission)

Background Information for Recommendation No. 3

Tab E - Letter dated May 22, 2018, to the Bureau of Justice Assistance and the Public Safety Performance Project requesting technical assistance from the Crime and Justice Institute as part of the Justice Reinvestment Initiative

Tab F - Presentation on the Accounting and Application of Sentencing Credits, submitted by Garrit Pruyt

Throughout the past several years, numerous stakeholders from the three branches of government have repeatedly sought technical assistance from Bureau of Justice Assistance and the Pew Charitable Trusts to engage in the formal process known as the Justice Reinvestment Initiative. This year, Nevada was selected as a participant, and since July representatives of the Crime and Justice Institute have been meeting with representatives of state and local government directly involved in Nevada’s criminal justice system.

During the Commission meetings held on April 27 and August 2, 2018, Garrit Pruyt, Deputy District Attorney, Office of the Carson City District Attorney, appeared and presented on the accounting and application of sentencing credits. Mr. Pruyt explained that there are four types of sentence credits—stat time, flat time, work time and merit. Stat time credits are determined based on the amount of time a person has been incarcerated. Mr. Pruyt further stated, “Inmates cannot earn good time credits unless they have served the time, according to statute, NRS 209.4465, which states that, ‘for the period the offender is actually incarcerated pursuant to his or her sentence’ the offender will receive a 20-day reduction for each month served.” This credit is for good time, or merit credits, where an inmate has not elected to work, program or do anything else. Mr. Pruyt explained, “For every year served, just adding in good time credits, an inmate will earn a minimum of 605 days toward his or her sentence.”

Mr. Pruyt explained that “under the current statutory scheme, credits can apply to the front or the back of any given sentence. Credit always applies to the back of a sentence, but when people talk about the credits on the front, it is about the parole eligibility date. Front end credits do not apply to category A or category B felonies, offenses with certain uses of force or violence, or sexual offenses.” Mr. Pruyt concluded by stating, “based on your best-case scenarios, you’re generally looking (at an inmate serving) half (of his or her sentence).”

Generally, the Commission's discussion centered around whether the current sentencing structure bore any resemblance to "truth-in-sentencing" and whether the system provided adequate certainty to the courts, the accused and the victim. Chair Hardesty commented, "My takeaway on all of this over all these years is that anybody who calls our system truth in sentencing is kidding themselves. We also have examples illustrated today where judges learn that what they thought they were doing, they weren't doing. Certainly, lawyers are in the same situation. I don't think that's a system that's truthful." To which Commissioner Bisbee added, "There is a saying in Nevada: don't do the crime if you can't do half the time. One of the huge problems A.B. 510 causes for the Parole Board is impact on victims, and we have to deal with that frequently when they are in absolute shock as to what has happened to a sentence."

At the meeting held on August 2, 2018, Mr. Pruyt suggested that the consequences of the current system are a lack of transparency and a loss of public trust. Pursuant to the Commission's request, Mr. Pruyt identified five possible solutions to the current statutory credit system: (1) restore transparency to the system; (2) the sentence pronounced by the Judge should be the sentence served by the inmate; (3) remove credits from the front end of all sentences; (4) remove the house arrest provisions as currently drafted; and (5) remove the application of credits to persons on parole.

This recommendation would include the drafting of a letter to the Advisory Commission on the Administration of Justice, the Governor and the Legislature supporting any potential findings of the Justice Reinvestment Initiative, including any recommendations relating to the complexity of the current statutory sentence credit system.

RECOMMENDATION NO. 4— Draft legislation/draft a letter/include a policy statement in the final report on the need to define "recidivism." (Commission)

Background Information for Recommendation No. 4

Throughout the interim, the Commission heard from numerous presenters on the need to accurately define recidivism as a means to positively identify the success/failure rates of the criminal justice system. During the Commission meeting held on February 16, 2018, Commissioner Segal stated, "I think our number one priority needs to be protecting the public, so I'd like to see a lot more research into the recidivism rates and, to the extent that we're going to look at alternatives to incarceration and prison, I'd like to know more about what types of alternatives can affect our recidivism in a positive way." Commissioner Tolles added, "I'd just like to reiterate, and I don't want to oversimplify it, but a cost-benefit analysis of taking a look at the comparison of costs of programs and data collection systems and then seeing the benefit to increasing public safety, decreasing recidivism and decreasing costs to the prison system and long-term societal costs." To that end, Commissioner Freeman asserted, "What really gave me pause to think was the Oregon presentation, related to the fact that they had funding. What I got from it, in a very simplistic approach, is that the legislature was very interested in funding the various programs to keep offenders from going to prison by their recidivism rate, and that's one of the things that his commission looks at is 'Hey,

your recidivism rate is going up. We hold the purse strings. Tell us a little bit about what's going on. We can do some improvements.'”

Chair Hardesty added, “We have heard that the term recidivism is defined in different ways, and that's always been a frustrating thing for as long as I've been a lawyer and a judge. I think it's going to be critical for this Commission to use as a baseline its definition of recidivism. I'd like to hear some conversation about that, because it makes a big difference in how we approach data collection and how we assess this. How do we want to examine or consider recidivism when we're doing our data build up?”

To which Commissioner Dzurenda responded, “Right now, NDOC cannot change the way we do recidivism, because there's a thing called the Second Chance Reentry grant that dictates how we actually do our reentry recidivism rate and what categories we use for it. So, if we do something different outside of here, it will contradict what we do in the prison system, but we can't change what we're doing. It's a reentry of any offender who left the system who actually comes back into the system. The corrections system, prisons, not the jails, so it doesn't calculate sentences that were time served from the jails or from the courts and let go. It has to be someone who actually walked back in our front door again and they calculate it that way, up to 3 years.”

Chair Hardesty added, “So, somewhat similar to I believe it was North Carolina, a return to the prison within 3 years, either as a result of a probation violation or a new offense. Is that fair?” Mike Schmidt then supplemented the discussion, “Just because Oregon has had this debate recently. When we originally changed our definition of recidivism in 2013, we defined it as a new arrest, conviction or incarceration for any reason. That was our original definition of recidivism. What we quickly found out is that, when you look at some of our programs like high intensive supervision or drug courts or things like that where you're monitoring people very closely, you're going to find things like dirty urinalysis for sure, but even less serious violations like maybe missing an appointment for treatment or something. You're going to figure out that the closer you supervise people, the higher your recidivism rates are if you define it as 'for any reason.' That's why Oregon changed to 'for a new crime,' because essentially, the better a job you do intensively supervising people, that could lead to you having a higher recidivism rate just because you're actually keeping track. I just felt compelled to share that with you because we have had that conversation and been through it. Recidivism changes incentives in our system, because programs want to show that they have low recidivism rates. You don't want your programs and your specialty courts not holding people accountable because it might adversely impact their recidivism rates if you define it a certain way.”

In conclusion, Chair Hardesty stated, “So, (recidivism) as defined by Director Dzurenda, (means) ‘A person who is released from the Nevada State correctional system and returned.’ He just handed me the statistics for January 1, 2014, through January 1, 2015. Of those who had been released from the Nevada State Prison and returned during that period of time, the recidivism rate was 28.64 percent. My memory

since I've been associated with the Advisory Commission on the Administration of Justice, that 28 percent rate, I believe, has been the rate for probably 10 years around here in Nevada, of using that definition. If one were to change it slightly, consistent with Oregon's, it would say 'a new offense,' whether or not they've been incarcerated, so it'd probably expand the percentage, which is probably why you folks are closer to the 40 or 45 percent range, and probably why Virginia is closer to the 40 percent range also. It is important how you define it, really important."

RECOMMENDATION NO. 5 — Draft a letter to the Governor and Legislature to support additional funding for the Records, Communications and Compliance Division of the Nevada Department of Public Safety for increased funding for staffing and technology for the Central Repository for Nevada Records of Criminal History. (Commission)

Background Information for Recommendation No. 5

During the Commission meeting held on August 2, 2018, Mindy McKay, Records Bureau Chief, appeared and presented an overview of the Central Repository. Ms. McKay indicated, "the Central Repository for Nevada records of Criminal History is housed within the Records Communications and Compliance Division within the Nevada Department of Public Safety pursuant to the statutes. We collect and maintain records reports and compilations of statistical data submitted by each agency of criminal justice, collect maintain and arrange all information regarding records of criminal history, DNA profile of certain persons for whom a biological specimen was obtained and we use a biometric and personal identifying information of a subject as the basis of maintaining any records regarding him or her. The Records Bureau's primary responsibility is to provide Nevada's criminal justice community with the information necessary for them to ensure public safety."

Chair Hardesty posited, "We will get into this in a little bit more when we talk about data, but it does seem like your department is expected to collect a lot of data but you can't collect that which you don't have, and it sounds like you have a pretty severe demands. I know that it's always awkward for people in the executive branch to respond to questions like this, but staffing is a big issue for you folks, and I know your staff worked very hard and I've seen them work and I wonder if you could comment on the staffing needs for your department to meet these extraordinary numbers and these extraordinary responsibilities."

To which, Ms. McKay responded, "Yes, staffing is always an issue, for various reasons, shift work is not desirable, the level of the positions, I feel that they're underpaid for what they do and for what interpretation analyzation decisions that they're required to make. I feel that technology would really be helpful to reduce staffing needs. I think it's going to have to be a combination of both human and technological advances."

This recommendation would support the system modernization efforts of the Central Repository and is significant and in line with improving criminal justice information sharing and data gaps. As indicated by staff of the Central Repository, "System modernization is the Central Repository's number one priority, along with cooperation

by all criminal justice agencies so that the Central Repository is in partnership toward a common goal.”

RECOMMENDATION NO. 6 — Draft a letter to the Governor and Legislature to support additional funding for the Division of Parole and Probation, the Department of Corrections and the State Board of Parole Commissioners. (Commission)

Background Information for Recommendation No. 6

Tab G - Letter dated January 13, 2017, to the Governor and Legislature

During the interim, the Commission received testimony and input from the Division of Parole and Probation, the Department of Corrections and the State Board of Parole Commissioners on a number of issues relating to the funding and functioning of the criminal justice system in Nevada.

At the November 27, 2017, meeting, Director Dzurenda stated, “You’ll see that a little more than 50 percent of our offenders that are sentenced in the Department of Corrections in Nevada are serving less than 20 years. I just want to make it clear that those are offenders who are going home, which is why we really have to look at how we deal with sentencing and discharge of offenders, to reduce not only crime, but to reduce victimization. The other thing I think is going to be important to look at down the road is juveniles that are sentenced into the adult prisons. Currently there are 16 in the State, and down the road, I can explain how we treat juveniles and how we house them and where they’re located.” Additionally, he added, “When you start saving prison money, moving that saved money into those wrap-around services is going to be the whole key with reducing victimization in the long term.”

At the meeting held on August 2, 2018, Major O’Rourke testified, “The pre-sentence recommendation, the Division utilizes a scoring tool that requires a PSI specialist to answer a series of 35 questions. The answers are then calculated to create a score which is used by the PSI specialist to formulate an appropriate sentence recommendation. Some of our sentence recommendations include prison, jail or probation with special conditions such as restitution or fines and fees. Our statistics from fiscal year 2017. For fiscal year 2017 we authored 10,135 PSIs while 11,183 were referred.”

The Commission considered input on the increased demands on the PSI writers, the shifting prison population and the release mechanism through parole. This has been a consistent theme over the past several interims (as previously identified by the Advisory Commission on the Administration of Justice), as the State has faced a continued shortfall in difficult economic times since the Great Recession. Certain issues such as staffing levels of the Division of Parole and Probation for the issuance of presentence investigation reports and courtroom staffing levels, resources and staffing issues for the Department of Corrections, and a growing prison population raised concerns from numerous members of the Commission. As such, while the Commission is specifically tasked with evaluating and recommending policy, this recommendation would urge the Governor and the Legislature to consider the pressing need for additional funding for the Division of Parole and Probation, Department of Corrections and State Board of Parole

Commissioners. For efficiency purposes, staff has combined all three criminal justice agencies into one recommendation for a single letter. If approved, the draft letter would be similar to the letter which was requested by the 2015-16 Advisory Commission (**Tab G**).

RECOMMENDATION NO. 7— Draft a letter to the Governor and Legislature recognizing and supporting the financial and substantive needs of the Specialty Court Program in Nevada. This recommendation would include a request for an additional \$3 million appropriation to the Specialty Court Program. (Commission)

Background Information for Recommendation No. 8

Tab H - Presentation on Specialty Court Funding, submitted by Chief Justice Michael Douglas

During the Commission meeting held on February 16, 2018, Chief Justice Michael Douglas presented a Specialty Court Review. Chief Justice Douglas opened by stating, “The interview you just went through with Oregon was very interesting, and some parts as he got into specialty courts comports with some of the things you will see in the presentation that we are doing here in Nevada. I wish we were as advanced and I wish we had the money that they talked about in Oregon.”

Chief Justice Douglas continued, “The first slide is just an overview and a reminder that Nevada’s first drug court came about in 1992. The late Judge Jack Lehman here in Las Vegas, closely followed by Judge Peter Breen, in Northern Nevada, they are kind of rock stars on a national basis for what they’ve done. Over the years, we’ve had over 13,000 participants, we have over 9,000 graduates. More importantly, one of the things that people can applaud, over 700 drug-free babies have been born because of the relationship to the programs. We’ve looked at our statistics, and in the last 20 years, we’ve had a savings of more than \$40,000,000 based on what has been put together by the National Association of Drug Courts.”

Adding to the discussion by way of history, Chair Hardesty explained, “In 2015, the Legislature considered recommendations from the Advisory Commission on the Administration of Justice to consider funding from the State general fund to help support Nevada’s specialty court effort. This was a unanimous recommendation from the Advisory Commission in 2014. The 2015 Legislature entertained this, and really for the first time since we’ve had specialty courts in our State, the Legislature agreed to fund \$3,000,000 per year into our specialty court front end effort in trying to deal with this matter. In the 2017 Legislative Session, the Advisory Commission had also in the 2016 Interim recommended that funding continue. There was a report presented to the judiciary committees and the money committees in the 2017 Session about what the Nevada judiciary had done with those funds, and the 2017 Legislature elected to continue that program. I asked Oregon, through their Criminal Sentencing Commission, to comment about what Oregon’s experience was with their investment in their specialty court programs and their front end money. Their investment began with \$15,000,000. At the time we had made our investment of \$3,000,000, they had invested \$15,000,000. We learned during our interviews with Oregon that that had been increased to \$40,000,000

(in total for justice reinvestment). They have made a sizable investment on the front end of addressing the criminal justice issues in Oregon, and I thought it would be informative for the Commission to hear how that sentencing commission has evolved now toward—principally, their function is managing those dollars and using those dollars to address front end issues in the criminal justice system.” Additionally, Mike Schmidt, Executive Director, Oregon Criminal Justice Commission, added, “Specialty courts are our other major grant program. We currently fund 41 specialty courts across the state. We estimate that there are approximately 72 specialty courts across the state [of Oregon]. We don’t fund them all, but we are the biggest source of funding for specialty courts. We use the term specialty courts because it’s an umbrella term. It encompasses mental health courts, veteran courts, adult drug courts, juvenile courts, family courts. We have a wide range of court types that we fund, but we supply them with the resources they need, mainly court coordinators and some other ancillary staff needs. They use their local system to access things like treatment, housing and other things that those programs might need. We try to get them as many resources as we can, but \$17,000,000 spread out across 41 courts kind of spreads it a little bit thin.”

This recommendation follows the approach of the previous two Advisory Commissions (**Tab G**) and is a recommendation to draft a letter to the Governor and the Legislature, specifically requesting a continuation of the \$3 million general fund appropriation, and supporting an increase of an additional \$3 million to more adequately meet the expanding needs and demands of the specialty court program.