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The Advisory Commission on the Administration of Justice  
Assemblyman Steve Yeager, Chair

Assemblyman Yeager,

During the commission's meeting on January 11, 2019, committee members were presented with the final report from the Criminal Justice Institute (CJI) on the Justice Reinvestment Initiative. As part of the reinvestment initiative, CJI met with all three branches of government to gain an understanding of the Nevada criminal justice system so that they could provide technical assistance to Nevada stakeholders. After extensive meetings and research, CJI presented the Advisory Commission with twenty-five policy recommendations for consideration for the 80<sup>th</sup> Legislative session.

During the Advisory meeting, a motion was passed to move all twenty-five recommendations forward. Although the majority of the committee members voted to approve the motion, some members expressed concern and ultimately voted against the motion. During the meeting, I concurred with the majority of the recommendations, but had concern over the language in several recommendations that are specific to the Division of Parole and Probation. This memo serves to memorialize my overall support, and to explain my concern for a few of the recommendations.

### **Recommendation 3: Remove existing barriers to presumptive probation.**

This recommendation concerns NRS 176A.100 which mandates that the first time an individual is convicted of a category E felony, the individual must be granted probation. The narrative of the recommendation indicates that for subsequent category E felony convictions, when the individual failed treatment, is currently on supervision, or was previously unsuccessful during a period of supervision may not be granted probation. However, this statute does not prohibit judges from granting probation in these situations. It appears that this recommendation may not be necessary.

### **Recommendation 15: Implement a specialty parole option for long-term, geriatric inmates.**

Although the Division recognizes that the cost to care for long-term geriatric or infirm inmates places a burden on NDOC, the Division does not agree that this burden should be transferred to the Division.

If the geriatric or infirm inmates are deemed to be a low risk to the community, the Division would recommend that rather than release the inmates to parole, upon the approval of a physician, psychologist or mental health provider that they are discharged from NDOC with no formal supervision from the Division.

**Recommendation 16: Reduce the maximum probation period that can be ordered.**

The narrative of this recommendation does not discuss that probationers and parolees are afforded earned compliance credits. Specifically, probationers can earn up to 20 days per month of compliance credits, thus reducing their supervision term. Parolees receive all earned compliance credits upon their release from NDOC, and credits are added to their expiration date lengthening the supervision period if they are not compliant. The concern is that with a shorter term of supervision, coupled with extensive earned compliance credits, justice involved individuals will serve a significantly less period of time under the Division's supervision than what CJI is recommending. The reduced supervision term could impact victim restitution collection, and a reduced time to complete mandatory conditions imposed by the court/board. As such, the Division believes a more in depth review that involves the application of earned compliance credits be considered.

**Recommendation 17: Expand use of swift, certain, and proportional sanctions.**

The Division is in agreement with this recommendation, however, the concern is that CJI is recommending/narrative implies that the Division is not using graduated sanctions. The Division is in fact utilizing graduated sanctions for swift and certain sanctions. This concern was addressed with members of CJI, however the recommendation was not modified to reflect this fact.

Additionally, the Division disagrees with CJI's definition of a technical violation because it does not include the conviction of misdemeanors. Some misdemeanor convictions can be serious public safety risks such as domestic violence and driving under the influence. Presently, NDOC does not define a misdemeanor conviction as a new charge, but rather a technical violation.

The Division does not agree with removing the consumption of any alcoholic beverages from the standard conditions of probation. This removes accountability from the probationers and over regulates the discretion of the Division and judges.

Finally, the Division does not use a single standard condition of probation as grounds for revocation. As noted, the Division uses a graduated sanction matrix for revocation purposes.

**Recommendation 18: Limit the period of incarceration resulting from a revocation for technical violations.**

The Division supports this recommendation with the clarification of the definition of a technical violation. Additionally, if this recommendation is implemented, the Division recognizes the fiscal burden that will be placed on all of the Nevada counties, and would thus require support from local jurisdictions.

**Recommendation 19: Strengthen supervision decision-making:**

In theory, the Division agrees with this recommendation; however, the Division is concerned that the narrative for this recommendation does not discuss the fact that during the 79<sup>th</sup> Legislative Session, the Division received funding for the development and implementation of a new validated risk assessment tool to be utilized during the presentence investigation process as well as for a community supervision risk/needs tool. The Division has already implemented the community supervision tool and has completed over 10,000 assessments statewide. The University of Cincinnati is in the process of developing the presentence risk/needs tool. Additionally, Division staff already develop individualized case plans for justice involved individuals based off their risk assessment and level of needs. It should be noted that despite Division staff recommending case plans, ultimately the supervision conditions are set by the sentencing judges. Therefore, the Division's concern with this recommendation is that the language used insinuates that the Division has not already recognized the need for a validated assessment tool, and does not address that the Division is already in the process of implementing the validated tool.

Thank you for the opportunity to express my concern for a few of CJI's recommendations.

Sincerely,



Natalie Wood, Chief

