

## **MINUTES OF THE 2017-2018 INTERIM NEVADA SENTENCING COMMISSION**

**August 29, 2018**

The meeting of the Nevada Sentencing Commission was called to order by Chair Hardesty at 9:03 a.m. at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada, and via videoconference at the Grant Sawyer Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada.

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

### **COMMITTEE MEMBERS PRESENT (CARSON CITY):**

Justice James W. Hardesty, Nevada Supreme Court; Chair  
Senator Ben Kieckhefer, Senatorial District No. 16  
Assemblywoman Jill Tolles, Assembly District No. 25  
Dennis Cameron, Representative, State Bar of Nevada  
Christopher DeRicco, Chairman, Board of Parole Commissioners  
James Dzurenda, Director, Department of Corrections  
Chris Hicks, Washoe County District Attorney  
Karin Kreizenbeck, State Public Defender  
Keith Logan, Sheriff, Eureka County  
Elizabeth Neighbors, Ph.D., Statewide Forensic Mental Health Program Director, Division  
of Public and Behavioral Health  
Holly Welborn, Policy Director, ACLU of Nevada, Inmate Advocate

### **COMMITTEE MEMBERS PRESENT (LAS VEGAS):**

Senator Nicole Cannizzaro, Senatorial District No. 6  
Assemblyman Ozzie Fumo, Assembly District No. 21  
Scott Burton, Professor of Criminal Justice, CSN  
Chuck Callaway, Police Director, Las Vegas Metro  
Magann Jordan, Victims' Rights Advocate  
Tegan Machnich, Chief Deputy Public Defender, Clark County  
John McCormick, Assistant Court Administrator, Administrative Office of the Courts  
Jon Ponder, Representative, Offender Reentry  
Jeff Segal, Bureau Chief, Attorney General's Office  
Judge Jennifer Togliatti, Eighth Judicial District Court

**COMMITTEE MEMBERS EXCUSED:**

Judge Scott Freeman, Second Judicial District Court  
Adam Laxalt, Attorney General  
Stephanie O'Rourke, Major, Parole and Probation  
Donald Soderberg, Director, Employment, Training and Rehabilitation

**STAFF MEMBERS:**

Nicolas Anthony, Commission Counsel, Senior Principal Deputy Legislative Counsel,  
Legal Division, Legislative Counsel Bureau  
Victoria Gonzalez, Deputy Legislative Counsel, Legal Division, Legislative Counsel  
Bureau  
Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau  
Jordan Haas, Secretary, Legal Division, Legislative Counsel Bureau

**OTHERS PRESENT:**

Mindy McKay, Records Bureau Chief, Department of Public Safety, Records,  
Communications and Compliance Division  
Tammy Trio, Administrative Services Officer, Records, Communications and Compliance  
Division

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

I will now open the fourth meeting of the 2017-2018 Interim's Nevada Sentencing Commission (NSC). Seeing no public comment, we will proceed with the meeting. Have you all had a chance to look at the minutes of the joint meeting of the Nevada Sentencing Commission and the Advisory Commission on the Administration of Justice (ACAJ) held on August 2, 2018 ([Agenda Item IV](#))? If so, is there a motion to approve the minutes on behalf of the Nevada Sentencing Commission?

ASSEMBLYWOMAN TOLLES MOVED TO APPROVE THE MINUTES OF THE  
AUGUST 2, 2018 JOINT MEETING OF THE ADVISORY COMMISSION ON THE  
ADMINISTRATION OF JUSTICE AND THE NEVADA SENTENCING  
COMMISSION.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Hardesty:**

The minutes, at least on behalf of the Nevada Sentencing Commission, are approved.

Today's meeting is, as we have discussed before, a work session. Prior to today's meeting, I had asked Mr. Anthony and staff to work on a work session document ([Agenda Item VI A](#)). I want to commend Mr. Anthony and his staff for working up the work session memorandum and exhibits. It was quite an undertaking, and I really appreciate the staff's effort here. It really assists the Commission. Thank you, Mr. Anthony and your staff, for all the support you have given to the Commission so far and the preparation of the work session document.

As the Commission members know, I believe, we are required by statute to make whatever legislative recommendations we wish to make by August 31, 2018 so that Mr. Anthony and staff can prepare whatever legislation needs to be prepared and the bill draft request (BDR) submitted that is allocated to us under the legislation that created the Sentencing Commission. The purpose of today's meeting is to address that potential deadline. In addition, though, the Commission is working in tandem with the Advisory Commission and following the work of the Justice Reinvestment Initiative (JRI) folks. I anticipate at least another meeting of the Sentencing Commission between now and the time the Legislature begins, working with Assemblyman Yeager to work a joint meeting again where we would receive an update on the progress that has occurred with JRI. Probably, based on the schedule that Chair Yeager and I have been working on for the Advisory Commission, that would take place probably in the first week or two of January. At that time, we would receive the report and all of the recommendations that had taken place, but in the meantime I'm going to ask staff to circulate after this meeting a list of the dates of the meetings that have already been set for the Advisory Commission. The Advisory Commission is meeting throughout the fall and will be receiving updates on the data analysis that's being done by the Crime and Justice Institute (CJI) and the JRI folks. It will be a progressive step, and I think it will be valuable to all of you to watch those meetings and see those presentations. The materials and all of those presentations will be posted on the Advisory Commission's website as exhibits, and I would urge all of you to follow that. Some of the recommendations, or at least one in particular that we might make today, is something that relates to the reports that will be presented to the Advisory Commission, and we will talk about that when we get to that particular item on the agenda. Do any members on the Commission have any questions about what's taking place this fall and what our role will be as I've tried to explain it?

We'll try to keep you updated as best we can with periodic reports and information, but I think hopefully that January meeting or the December meeting will be a joint meeting. I'll give you a heads-up hopefully 30 days in advance of that, but you might take a look at the meeting schedules that have already been set for those meetings. Mr. Anthony will get that out to everybody.

We have a number of items that were identified in the work session document to discuss, and I wanted to begin with agenda item E. Ms. McKay has some scheduling issues, so I'm going to take this subject out of order. I trust you have had time to read and evaluate the work session document, but Ms. McKay had offered some supplemental information. I'm going to ask her to come forward and augment her prior presentations with some updated information, then we'll take up item E after she has presented her information.

**Mindy McKay (Records Bureau Chief, Nevada Department of Public Safety, Records, Communications and Compliance Division):**

With regard to agenda item E, the supplemental information in front of you was provided at the request of Justice Hardesty at the Joint Commission's meeting ([Agenda Item VI B](#)). There was a request for a list of needs that the Central Repository is seeking now and into the future. We decided to go ahead and prioritize those needs as well. In front of you, you should have the needs list from the Central Repository. Priority number one: funding. If you have adequate funding, you can pretty much accomplish most of the other priorities that we have on the list. With the funding, what I stated was we need a sufficient, sustainable source of funding because court assessments are not sufficient to fund our criminal justice information sharing needs and outreach. Also, any time a new program or a new statute is assigned to the Division, we would greatly appreciate if it comes with funding as well. Federal grants are not guaranteed or long-term, and the US Department of Justice is becoming stricter with their solicitation requirements to qualify for those grants. Some of the suggestions that we provided to you under the funding priority create new connection and transaction fees for the users of our systems. Those users include, but are not limited to, criminal justice agencies throughout the state. Increase our civil program fees: our civil programs are the Brady Point of Contact Firearms Program, our Civil Applicant Program and our Civil Name Check Program. We can also raise court assessment fees. We could include court assessments, if such exist, for gross misdemeanor and felony cases, because right now we get those from misdemeanors. We could also seek general funds. That was under priority number one as far as our needs for the Central Repository specific to funding.

Priority number two, if we have adequate funding, is technology automation and dedicated subject matter expert resources. As you all know, we are undergoing a huge Nevada Criminal Justice Information System (NCJIS) modernization. That system is used statewide by criminal justice agencies to affect their jobs, what they need to do to meet their missions within their own agencies, but it's also used nationwide by criminal justice agencies for similar purposes. It is also used for civil purposes for employment, licensing, adoptions. Our Civil Name Check Program uses it, our Brady Point of Contact Firearm Program uses it in order to determine firearms transfers. The system is extremely important for multiple reasons. It is extremely old, it needs to be replaced and it is huge. It's going to cost millions of dollars. We also need to contract with the entities that can be held accountable, have the skillset and continuing education to maintain those systems, the ability to contribute all of the information that is required throughout the justice system for a complete, timely and accurate record. Another suggestion is for standardization

across all systems statewide as far as what they capture, what they report, how they report and the types of information and the systems that they report for ease of interfacing and electronic information sharing. We need a system that is robust, that does everything we need it to do when we need it to do it. We cannot leave the officers on the street blind.

Priority number three is staff, space and tools, broken out as such with staff being the first. They need to be paid according to their responsibilities and competitive with similar public and private positions. Temporary staff and administrative assistants are not the proper classification to perform critical tasks and make judgments such as who can have a firearm, the tier levels of a sex offender and who can work in positions of trust such as teachers, daycare workers, nurses, etc. We suggest that the Division of Human Resource Management work with us to create a new class series specific to the Records Bureau's business similar to how the Department of Motor Vehicles (DMV) has their class series. They start at technician, they go to a specialist and a supervisor, then a manager, but it is specific to the DMV. Also, our staff needs to grow as our programs grow. For example, our Sex Offender Registry. Unfortunately, our population of sex offenders who are required to register in the State of Nevada grows every year. It grows to the tune of approximately 350. An adequate caseload for 1 case investigator is about 350 offenders, so that means if we grow by 350 offenders every year, we need an additional staff member every year just in my Sex Offender Registry Unit.

Number two under priority number three is we need adequate funding for additional leased office space for our staffing increases, and we need the proper tools in order to allow our staff to perform their jobs adequately and efficiently, to include training, technology, software, the proper equipment and then also funding for in-state and out-of-state travel to attend various meetings, seminars and training opportunities for our staff. Right now we have to pick one, if we are even lucky enough to send one, or two if we're lucky. We would really appreciate funding, especially for out-of-state travel, for those opportunities.

Lastly, priority number four: there are a multitude of statutes governing law enforcement, prosecution, courts, corrections, the repository, etc. Some of those statutes conflict and make it confusing who is responsible for what. Our suggestion is that, similar to the Justice Reinvestment Initiative, the interim legislative committee be created to study the relevant statutes, analyze who is responsible for what and determine where reform needs to occur, then include the necessary legislation for the 2021 Session and beyond to implement the changes. The scope of the study could include the feasibility of a unified technology system or regional data sharing hubs or consortiums, standardized record retention across all agencies that doesn't negatively impact anyone's ability to use their information for purposes such as public records requests, criminal charge enhancements, etc., defining who is the owner of the record and who is responsible to do what with those records and removing instances of statutory conflicts.

Those were the priorities and the needs that were requested for the Central Repository specifically. I just really want to point back to our NCJIS modernization efforts. This would

be ongoing. It's going to be expensive. It'll be over multiple biennia, and again, it's going to be ongoing. Technology grows every year. It becomes something new and refreshed every year that we have to try to keep up with, and so it's not just a one and done. That is probably the most important for us right now. That is priority number one for us, as it is for the state, criminal justice agencies, employers. Are there any questions?

**Holly Welborn (Policy Director, ACLU of Nevada, Inmate Advocate):**

Could you restate for me the revenue sources that you proposed at the beginning of your presentation?

**Ms. McKay:**

Sure. Under priority number one in the handout, some of the suggestions made were to create new connection transaction fees ([Agenda Item VI B](#)). Right now, in order to have access to our systems, they have to connect to our systems through a series of technology platforms. We have to make sure it is secure, so there's got to be firewalls. The access, the highway that we talk to each other, has to be secure and it has to be stood up and it has to be functional, it has to be tested, and it has to be maintained. Right now, we don't charge for connection or a transaction fee, transaction meaning per transaction. If you run so many queries on wanted people or so many queries on rap sheets, that's a suggested transaction fee. For users of our system, which again includes not only our local criminal justice agencies, so law enforcement, sheriffs' offices, police departments, prosecutors, courts, we also have our civil name check, which is for civil purposes, not criminal. We have companies that access our state-only system for purposes of conducting name checks, background checks for employment purposes on behalf of employers. We also use it in our Brady Unit for firearms transactions. We also use it for our civil applicant purposes for employment licensings that require fingerprints. There is a fingerprint fee already, but the other part of that suggestion was increasing those civil transaction fees. Fingerprints have a fee, but we could increase that fee. For Brady Point of Contact, we have a fee, but we could increase that fee. For civil name checks, we have a fee, but we could increase that fee. That is what the example is there for, increasing the civil programs. Raising the court assessment fees and including any other similar court assessment fees would be helpful, and then there's always the general fund. Does that answer your question?

**Ms. Welborn:**

It does, thank you.

**Chair Hardesty:**

I have a couple of different questions. Has your department determined the amount of money that you're trying to generate under priority number one? Has there been a budget calculation so that there is a target around which the Legislature could work?

**Ms. McKay:**

As a whole, we don't have a bottom-line number, but I can tell you, for example, with respect to priority number two with our NCJIS modernization efforts, we are currently working with a consultant to come up with that bottom-line number as to what it is going to take to modernize and replace our entire Nevada Criminal Justice Information System. We received a draft of that assessment and it is to the tune of over \$55,000,000 just for the NCJIS modernization effort. Related to staff needs, when I say that we need additional staff in our Sex Offender Unit every year, that is an administrative assistant IV level right now, so we could tell you what the cost of that would be for adding additional staff in the Sex Offender Unit. As far as a bottom-line number, we don't have a total for you at this time. We are working on budgets right now. It also includes that we are experiencing some increases with our Western Identification Network. We are a member of that, and those fees are increasing. We are going to also see an increase to our SEARCH membership fees, so there are a lot of fees and expenditures that come along with this that we would have to put together as a whole, but we are working on that with our budget. I do have with me today Tammy Trio. She is our Chief Financial Officer for any financial questions. As far as how we are currently funded, she can answer that for you as well.

**Chair Hardesty:**

Would you share with the Commission, as an example, what does Mr. Hicks' office pay as a fee, the Washoe County District Attorney's Office, to access? As you say, there is no current transaction fee, so what would happen to him and his budget if this approach was undertaken?

**Ms. McKay:**

If that was palatable to everyone, with respect to creating a new connection fee, we would definitely conduct adequate research. We would reach out to our counterpart states to see if they charge a connection fee, and if so, how did they come up with that fee. We would then definitely bring it to the various bodies that would have to approve that. We would have a method for that. At this time, I wouldn't be able to give you an exact number of what that fee would look like, but it would definitely—yeah, all of the local criminal justice agencies would have to put that into their budgets. It would be a huge impact to them.

**Chair Hardesty:**

Is it the case that the District Attorney's Office in Washoe County and other district attorneys' offices throughout the state are not paying an access fee?

**Ms. McKay:**

Not at this time, no.

**Chair Hardesty:**

Is there any cost to any of the local governments, to sheriffs' offices and the like to access the Criminal History Repository?

**Ms. McKay:**

Not at this time, no.

**Chair Hardesty:**

Sheriffs, police officers, police?

**Ms. McKay:**

No.

**Chair Hardesty:**

All right. Do you know off the top of your head if other states charge fees for their local government, law enforcement agencies and others to access the criminal justice repository?

**Ms. McKay:**

Other states I'm not aware of. Again, that would come with our research. We would be reaching out to our counterparts to see if they have fees. In state, we do have the Clark County system SCOPE (Shared Computer Operations for Protection and Enforcement). They do charge for access to the SCOPE system, a transaction fee. Ms. Trio is also letting me know that they also charge a recoup fee for annual maintenance of the system.

**Chair Hardesty:**

They meaning SCOPE?

**Ms. McKay:**

Correct, in Clark County.

**Chair Hardesty:**

On the civil program fees, you are currently charging fees and you just would propose an increase in some of those fees?



**Ms. McKay:**

That is correct.

**Chair Hardesty:**

Can you give me some examples of entities that currently pay fees through the civil program access? Like the Washoe County School District, for example?

**Ms. McKay:**

Correct, yes. Any state employers who have a fingerprint requirement in statute. For employment and for licensing, we have thousands of accounts. Yes; for example, schools and school districts, we've got nursing. We have thousands of them, anyone who requires a fingerprint background check as part of employment and/or licensing. Again, I could get you a list of those.

**Chair Hardesty:**

All of the first three priorities are related to your efforts to bring the Repository current, is my understanding.

**Ms. McKay:**

Correct.

**Chair Hardesty:**

I'd invite comments on this, but I think from a jurisdictional standpoint, priority number four belongs in the Advisory Commission rather than the Sentencing Commission. For Commissioners' information, if you don't already know, the Advisory Commission was charged by statute to create a subcommittee to study the Criminal History Repository systems in the state, and my recollection of the legislation is that it included the coordination of the various systems. That would take into account, I think, some of the issues that are raised in priority number four. I don't want to step on the Advisory Commission's toes. It seems like jurisdictionally priority number four belongs in the Advisory Commission. As well, recommendation number five is what we're talking about in the memorandum, and that recommendation proposes to draft a letter to the Governor and the Legislature to support additional funding for the Records, Communications and Compliance Division, and it sounds like there's going to be an awful lot of additional work that is going to have to be developed in order to present a budget both to the Governor and to the Legislature next session. Is that your intention, Ms. McKay?

**Ms. McKay:**

Correct.

**Chair Hardesty:**

Unless there are other questions for Ms. McKay, my question to the Sentencing Commission is this: do we support this recommendation? We're not identifying specific dollar amounts, and we're not even agreeing to particular fees or alternatives. I think that is something that's going to be debated. The question before the Commission proposed by this recommendation is whether we support additional funding. Do we recognize there is a need for additional funding, especially for the Criminal History Repository in order to get its job done and to be more effective, and do we support that effort? Are there any other questions for Ms. McKay?

**Keith Logan (Sheriff, Eureka County):**

From the Sheriff's Office's standpoint, we are in the process of changing over from Uniform Crime Reporting (UCR) to the National Incident-Based Reporting System (NIBRS). The counties have all just had to change over from the AS400 system that have a single assessor and technology is used, and that's been millions of dollars for each agency to do that. We have never had to pay a fee, although all your fingerprint fees that we currently do charge are just a pass-through for what you do, and within the last couple of years that went down in costs. Anybody that needs to get their fingerprints are going to pay that fee. I think it went down by \$2. I don't know by the volume how much it is going to be, but I don't think there are enough public agencies in order to recoup a cost of \$55,000,000, or even \$1,000,000. For the amount of agencies, that's going to be a pretty substantial hit to each county. Please consider in your priority number two about the training cost for the state. If you do implement anything differently, obviously that's the interface problem that we have is for us to input the information correctly for you to get it. As you and I spoke before the meeting, at our present rate of what we're putting in the data entry for all the past convictions, that's at least 11 years out, and that's in a perfect world with all the new stuff coming in and the size of what you're going to need. I believe absolutely that this is a requirement to do, it's just a matter of how to identify what that apple is and then how to cut that apple up to make it work for everybody. We're asking you for the data, and that data is going to be the lifeblood of everything else we do. We have to get it done and we have to get it done correctly, and then your recruitment and retention of people, the ability to do that, has to be considered. You very thoughtfully did that, and I appreciate it. Thank you.

**Ms. McKay:**

Thank you.

**Senator Ben Kieckhefer (Senatorial District No. 16):**

I think Chair Hardesty touched on this. Are you preparing any fee increases or anything in your budget request that's going to the Governor? What are you asking for out of the executive branch right now?

**Tammy Trio (Administrative Services Officer, Records, Communications and Compliance Division):**

We had requested an increase in fees on the civil side, only on the civil applicant side. I want to clarify something. We did decrease our fees. That was based on the Federal Bureau of Investigation's (FBI) portion of the fee that we charge, so our fee for civil applicants is twofold. One of them goes to the FBI portion and we retain the rest of it. Our current fee for our side of the house, the state side, is \$23.50 and the federal government, the FBI, gets the other piece because we process records through them. For the fee that we are increasing, I have three different scenarios for our increase of the \$23.50. I have a \$1.50 increase, a \$2.50 increase and a \$3.50 increase. I have it in my items for special consideration at this point. On the \$3.50 increase, that would increase our revenue each year by approximately \$1,000,000 just on the civil applicant side.

**Senator Kieckhefer:**

Are those fees unrestricted for being used for the programs that generate them?

**Ms. Trio:**

Correct. We use those fees across the board for sustainability of our agency.

**Senator Kieckhefer:**

So, no; once it's in your hands, it's fungible. A fee that is paid for a Brady check doesn't have to be used for staff specifically dedicated to Brady checks.

**Ms. Trio:**

I do a cost allocation for our staff, and the Brady fees that do come in are over and above what the Brady Unit costs. There are other funding sources that we don't receive enough for, so the Brady as well as the civil applicant side do help fund those areas that we're not getting enough revenue.

**Senator Kieckhefer:**

Are the fees that you're looking to increase the ones that do not generate enough revenue to cover their costs?

**Ms. Trio:**

Those fees are bound by statute. We only get a certain amount.

**Senator Kieckhefer:**

Okay, thank you.

**Assemblywoman Jill Tolles (Assembly District No. 25):**

For clarification, would you walk me through who pays these civil fees? Who are the various individuals or entities that would pay the civil fees?

**Ms. McKay:**

We have the Brady Point of Contact Firearms Program that is paid by the person that is going to the federally firearms-licensed gun dealer shop and requesting to either purchase a firearm or to redeem their firearm from pawn. If it was me going to get my gun out of pawn, I would pay that \$25. It's a pass through the dealer, so the dealer passes it through from the customer at their shop to us, and that's a \$25 fee for Brady Point of Contact through a Federal Firearms License (FFL). Civil applicants are the entities within the state that are required by statute to have a fingerprint-based background check for employment and licensing. We have thousands of accounts of those, and it is for people who are working in positions of trust, anyone who's working with children, the elderly, the disabled. We have thousands of those accounts, and I'm happy to get you a list of all of those customers throughout the state. We also have our civil name check program, and again, that is used by employers or by volunteer organizations or by third-party background screening companies for the purposes of employment, but it's name check-based only. That is a \$20 fee.

Going back to the civil applicant fee, that was what Ms. Trio was just alluding to with respect to the fact that we have a state fingerprint fee and we have a federal and FBI fingerprint fee that we charge for. I don't have that fee off the top of my head. She might. For fingerprint purposes, we have people who will request their fingerprints for various purposes. We call them a personal identification. They have to pay the state. If they want an FBI copy, they have to go directly to the FBI for that. But if they want their State of Nevada rap sheet, they would pay the state fingerprint fee for that. We also have fingerprints that are processed for the purposes of concealed weapon permit applications. We have fingerprint requests for traveling, for visas, for epistles, for various things, for sealing records. We also process fingerprints on behalf of criminal justice agencies for criminal justice purposes. There's not a fee for that. It's a nonuser fee account. So, if I'm applying to work at a sheriff's office, it's for criminal justice purposes, so that fingerprint will go through us and also to the FBI for criminal justice employment, but there is no fee for that at this time. Does that answer your question?

**Assemblywoman Tolles:**

That does. I tried to keep notes, but if there's any way that you have a chart that you could submit to the Committee, I would appreciate that.

**Ms. McKay:**

Sure.

**Chair Hardesty:**

The response, if I could follow up, raised an interesting question. If a lawyer goes to work for Mr. Hicks or a law enforcement officer goes to work for Mr. Callaway or law clerks go to work for Justice Hardesty, are we paying the fee or not?

**Ms. McKay:**

If it's a fingerprint submission for criminal justice purposes and it meets that definition of criminal justice purposes, no, you are not charged a fee for that.

**Chair Hardesty:**

So, Mr. Callaway and Mr. Hicks aren't paying the fee, but we probably are?

**Ms. McKay:**

If you don't fall under that definition of criminal justice employment.

**Chair Hardesty:**

Interesting. We'll look into that. Mr. McCormick, can you look into that for us?

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

Our hires, including law clerks and Administrative Office of the Courts (AOC) staff, qualify as a criminal justice hire so we do not pay the fee for that. There was an issue with interpreter background checks, and we resolved that last session, but we currently don't pay a fee for law clerk backgrounds.

**Chair Hardesty:**

Do all courts around the state submit background checks for law clerks, staff and employees?

**Mr. McCormick:**

I don't know if all of them do. Anecdotally, I know a lot of them do, and they do that through their county or city usually.

**Chair Hardesty:**

I wonder if they pay that as a result of it. That would be interesting to know. But it's an example that there are a whole bunch of people paying fees, and maybe it raises the question about should the exemption be expanded or contracted as well as whether the fee should be increased. Seeing no other questions for Ms. McKay, thank you very much for being here and being available today.

**Ms. McKay:**

We greatly appreciate everyone's support. Thank you very much.

**Chair Hardesty:**

Sure. While we're on the topic, would anyone on the Commission like to make a motion that is consistent with recommendation number five, or any other motion that one would want to make on the topic of supporting the enhancements for the Criminal History Repository for the Nevada Records of Criminal History?

SHERIFF LOGAN MOVED TO APPROVE RECOMMENDATION NO. 5.

MR. CALLAWAY SECONDED THE MOTION.

**Chair Hardesty:**

Is there any discussion on the proposal?

**Senator Kieckhefer:**

I spend the majority of my time in the Legislature working on budgets, and usually during interim committees I'll support certain items that request additional funding with the strong caveat that I will review it in terms of the greater landscape of the state budget as we move forward into the 2019 Legislative Session, and I'll do the same on this item and all the future ones that we're about to take up.

**Mr. McCormick:**

I would just comment that when the idea of increasing administrative assessments came up, before you calmed me down, I had a quarter of a page of questions about that, so I would just like to put my concerns regarding increasing those fees on the record and also indicate that if this letter is successful and additional funding is given to the Records, Communications and Compliance Division, we may want to consider the impact that will have on other agencies, particularly state partners. For example, if the Records, Communications and Compliance Division makes a change to some interface, that then creates a cost for the AOC to update our interface or programs to meet with that. I just wanted to put that concern on the record as well.

**Assemblywoman Tolles:**

I mostly just want to echo the concerns that have been raised by my colleagues. I absolutely am supportive of the need and absolutely committed to wanting to find the solution for that. I do have some concerns too with raising specific fees, if that becomes prohibitive for individuals and if that then might increase less compliance with following those procedures and purchasing firearms and getting background checks and volunteering and doing the things that we are trying to encourage citizens to do. I'm concerned with the possible impacts of that. I'm supportive of this, I just want to see what all the options are and flesh out the pros and cons before committing to the solution, but I know the request here today is supporting the need of moving forward and trying to find those solutions. I just wanted to get that on the record as well.

**Chair Hardesty:**

Seeing no other comments on the motion, I would join with Mr. McCormick's observation and for the record stress that too frequently the Legislature has resorted to court assessments as a means for funding various activities. As we all know, now roughly 58 percent of the court assessments are being used to support the budget of the Supreme Court, for which there is absolutely zero relationship between court assessments and the Supreme Court's budget. I think it's high time if people are serious about making data, especially criminal justice data, a priority that the general fund has to be looked at more deeply as a consistent revenue source to assure that the criminal justice system in the state can work effectively and commissions like this can make appropriate decisions. As Ms. McKay said, it's also a public safety issue. The cop on the street is relying on access to the Criminal Justice Repository and SCOPE, and quite frankly they're in jeopardy if they don't receive accurate information. I think this has to be a serious priority for the Legislature to evaluate, and it isn't something that can be resolved through a series of patchworks of fees, especially court administrative fees which we already struggle to collect because they're too high. Quite frankly, most people in the criminal justice system know that administrative assessment fees in many categories exceed the amount of the fine that's imposed by the statute, which is crazy. I'm hoping that with this

recommendation and with these comments, if the Legislature considers this to be a priority, it will focus more on the general fund than it will on outside fees.

**Sheriff Logan:**

You just echoed what I was going to tell you. Oftentimes with a citation or anything like that, part of our bigger problem is that the fine itself is very small and the fees are twice or more what that charge is, and that's not the way to do this. I wouldn't support that portion of this to try to fund something else. Most of the fees that we collect from an agency standpoint are funneled through, or pass through as I said before, and nobody at least in our entity has balked about paying for it nor have they not complied with their statutory requirements for teachers and all the other jobs and stuff like that. From a county standpoint, we would be more than happy to pay for those types of things, for fingerprints for our applicants and things of that nature. The only time I've seen court fees used for these fingerprints is for district court judges that have offered to pay for people trying to become foster parents. When that has been the hindrance of somebody applying to do that, I've seen them use the fees for that. That would be very easy to accomplish but I've never—Concealed Carry Weapons (CCW), job applicants, any of that, nobody's ever stopped.

**Scott Burton (Professor of Criminal Justice, CSN):**

I don't want to belabor the point, but I do think it's extremely important to support the funding. However, as has been pointed out, to depend on fees in particular through the court system, I think very much some caution needs to be used there. The idea of the general fund seems to be a much better way to manage the process.

**Chair Hardesty:**

Does any member of the Commission wish to modify or amend the current motion, or maybe the maker or the second would do so to support additional funding but focus on funding from the general fund specifically?

**Sheriff Logan:**

I have no problem with that change to identify that it's for general fund and the pass-through fees but not for any kind of a court or assessment fee.

**Chair Hardesty:**

Would the second accept that modification to the motion?

**Chuck Callaway (Police Director, Las Vegas Metro):**

Yes.



**Chair Hardesty:**

Does everybody understand the motion? It would be to draft a letter from the Commission to the Governor and the Legislature to support additional funding for the Records, Communications and Compliance Division of the Nevada Department of Public Safety for increased funding from the general fund and pass-through fees for staffing technology for the Central Repository of Nevada Records of Criminal History. Sheriff Logan, does that capture it okay? Mr. Callaway, is that okay?

**Mr. Callaway:**

Yes, that sounds good to me.

**Chair Hardesty:**

Are there any other comments or questions before we take a vote? Seeing none, I will call for a vote.

THE MOTION PASSED UNANIMOUSLY.

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For the record, we will reflect that as a motion unanimously approved by those present, with of course the qualifications that have been placed on the record by Senator Kieckhefer, Assemblywoman Tolles and, I assume, Senator Cannizzaro. You are also a qualified supporter on the same grounds?

**Senator Nicole Cannizzaro (Senatorial District No. 6):**

That's correct.

**Chair Hardesty:**

Let's move to the next item on the agenda, which is the first area of recommendations identified in the work program ([Agenda Item VI A](#)). This particular recommendation, as you can see, would ask for legislation to revise the duties of the Sentencing Commission to statutorily require the Commission to function as an independent and stand-alone analytical and oversight body for sentencing and related criminal justice data. Let me offer a point about this particular recommendation. We have heard a lot in this Commission about how other sentencing commissions work, and we've heard a lot about everything from guidelines, mandatory guidelines, some guidelines, no guidelines, but the consistent recurring theme seems to me to be the role of the sentencing commission in each state,

which is to advise the legislature on the impact of both fiscal as well as other impacts associated with criminal justice decisions through analyzed data. One of the things that came to my attention through the Justice Reinvestment effort was an example of the assessment that is provided in the State of Illinois through their sentencing commission. As all of you know that have been involved with the Legislature, there is frequently a fiscal impact request. I invite you to compare the exhibits that we've attached for a fiscal impact request in Nevada versus the kind of analysis that takes place in the State of Illinois when the sentencing commission there is asked to evaluate either proposed legislation or other alternatives. What this proposes is the Sentencing Commission's role going forward in addition to its other statutory duties. I don't know about you, but I personally am uncomfortable, especially with the JRI process taking place, making recommendations about guidelines. I think it is too early. We don't have enough data and I think we need to study the subject more, but I do think that the recurring theme in all of the sentencing commissions has been their role in advising the legislature through qualified staff on the fiscal and criminal justice impacts of proposed legislation or modifications to existing legislation. That's the nature of the first recommendation. I offer that for consideration by the Sentencing Commission based on all of the hearings that we've had so far. Do any Commission members have any questions regarding the first recommendation?

**Mr. Callaway:**

This is not my area of expertise, but a question I would have is if we change the function of the Sentencing Commission to function as in the third paragraph, Commission staff would function as an independent agency located in the executive branch of state government, and we have lawmakers as members of this Commission, do we then have a separation of powers issue where we have the legislative branch operating in a body that is deemed to be executive branch? How would that impact the makeup of the Commission?

**Chair Hardesty:**

I don't know about how it would impact the makeup of the Commission, but I think it's a good point, Mr. Callaway. It was drafted with an executive branch view in mind, but most of the commissions, as I recall, are located in the legislative branch. I would ask Mr. Anthony to comment on that, if he would. It's an important consideration.

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

From my recollection of the other commissions, the staff functions under the executive branch or the judicial branch but the body itself remains an advisory committee. Their staff is housed in the executive branch. But again, the Sentencing Commission only facilitates recommendations to the Legislature which then ultimately takes action, so there wouldn't be a separation of powers issue.

**Ms. Welborn:**

This office would not have the ability to create regulation? It would all still be just recommendations to the Legislature?

**Chair Hardesty:**

Yes, but it would be monitoring proposed legislation, and the Commission would be responding to inquiries from the Legislature. The Legislature would be expected to present those requests as they always do, but those would be fulfilled with the support of the staff and the Commission. It's the Commission's eyes ultimately that take a look at what the staff's analysis is before it's passed on, and it steps up the Commission's game during legislative sessions, I might add.

Any other questions or comments about recommendation number one?

**James Dzurenda (Director, Department of Corrections):**

When you made a comment about the fiscal impact, the original intent of a lot of these sentencing commissions that have developed around the country, especially in Nevada and JRI, it does have an initial budget impact. However, the long term effects of what we're trying to do with the Sentencing Commission and JRI is eventually reinvesting money that would have been put into the criminal justice system and put it into either community wraparound services or areas in the community to reduce crime. So, yes, there is an immediate fiscal impact, but long-term, the effects of what will be saved down the road in the reducing of crime and the reducing of prison population, all this will play an impact the other way which will let more money and more budget options to help with wraparound services in the community.

**Chair Hardesty:**

Thank you for that comment. I think that has been the recurring experience in the states that have adopted the sentencing commission and adopted the staff, and that's why I think we're in a position to evaluate whether to make this recommendation going into the next session.

**Senator Cannizzaro:**

It seems to me that we have this ongoing Justice Reinvestment Initiative and we don't really know what the effect of their survey and their compilation of data is going to be, but it feels a little bit like this recommendation is putting the horse before the cart in that we're going to establish this independent body that's going to make all these recommendations before we really get even the data that we've all been talking about during these meetings from the Justice Reinvestment Initiative. I have a little bit of concern that we're going to establish this commission without really having any idea of what ultimately we're trying to

accomplish or even the data that we're going to receive as a result of this initiative. I guess my question is, is there any wisdom in waiting until we get some of that data back before we make decisions about a stand-alone committee or what that committee is going to be providing to the Legislature without first understanding what's going to come out of that?

**Chair Hardesty:**

I had asked the JRI folks to comment on that. They are not able to attend today's meeting, but I'll represent to you that their response is that all of the sentencing commissions have used their staff to provide this kind of data analysis on fiscal impacts from legislation and criminal justice impacts. I believe the JRI folks find this to be a worthwhile tool going forward in analyzing not only the recommendations that come out of the Advisory Commission, but also assisting the Sentencing Commission as we work forward, whether it's in guideline areas or whether it's in future legislation or whether it's in repeal or revisions of existing legislation. Currently, as you know, we are unable as a Commission to make the kinds of analysis that other commissions are undertaking for lots of reasons. First and foremost probably is insufficient data, but most importantly, the absence or lack of staff to be able to even perform the function. I would add after seeing the comparison of the Illinois report that was provided versus the kind of fiscal impact response that Nevada's Legislature gets, there's a dramatic difference in the analysis that's provided in the two documents. I don't think we're being premature in this request. It is a consistent theme of nearly all sentencing commissions to provide this kind of assistance to their legislature, and that's the gravamen of the recommendation. I don't think there's anything premature about adopting the structure, but that's just my view.

**Assemblywoman Tolles:**

If we did not have this recommendation in place and we did not have a continuance of some sort of ongoing committee or commission to examine this issue further, who would be the one to receive the data reports and the recommendations from the Justice Reinvestment Initiative?

**Chair Hardesty:**

The Advisory Commission is the Commission that the JRI folks are working with, but by statute, sentencing evaluation and sentencing practices are to be evaluated by this Commission. The JRI folks are expected to make recommendations to the Advisory Commission, and we'll get to this in a later recommendation. That may influence the Sentencing Commission's work, but if the Sentencing Commission is not going to continue in this capacity, then the statute creating the Sentencing Commission is going to have to be evaluated next session anyway. I guess the question that is raised by this recommendation is whether this Commission believes that its role should be expanded to provide that support service and that analysis, or really does the Commission intend to just abandon any further work, because somebody will definitely have to be doing the data analysis once those recommendations are developed.

**Ms. Welborn:**

I have a couple of questions. We are approaching a statutory deadline, correct, as far as having our bill draft in as a Commission? That is September 1.

**Chair Hardesty:**

Right.

**Ms. Welborn:**

My follow up to that is, first, I do think that we should get the bill draft recommendation in. I do think that there is general consensus for this type of model, at least that's my takeaway, because we can definitely work this out based on those JRI recommendations as we move forward toward the legislative session. I also wanted to clarify, just for future work session documents, the letters that we will be drafting to the Governor's Office or the Legislature, those don't have to be decided during this work session necessarily, correct?

**Chair Hardesty:**

No, only the legislation. We could have deferred further action on recommendation number five, but I think it's so generic I thought we ought to just move forward, but there are a couple of other recommendations here that deal with letters which we can defer, and quite frankly, one of those is the topic that we're somewhat debating now, and that's the recommendation to support JRI's report to the Advisory Commission, to the extent we choose to do so. We don't have to. We don't have to accept any of their recommendations. We can take a completely independent approach. We can even oppose it once we know what it is. The Commission is free to do whatever it chooses to do. My question to the Commission is, we've been assigned certain legislative responsibilities already, and do we want to expand those to provide future analysis to the Legislature? As Director Dzurenda described, most of these commissions' roles have evolved into that process so that you can get some competent not only data analysis but fiscal analysis into the criminal justice decisions that legislatures are making.

Are there any other questions or comments about this recommendation? Seeing none, does anybody wish to make a motion regarding recommendation number one?

MS. WELBORN MOVED TO APPROVE RECOMMENDATION NO. 1.

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

**Chair Hardesty:**

Is there any discussion by the Commission regarding the motion which, I take it, Ms. Welborn, mirrors the language used in the work document ([Agenda Item VI A](#)), is that right?

**Ms. Welborn:**

That is correct.

**Chair Hardesty:**

Is that correct, Assemblywoman Tolles? You share that. Any questions or comments by Commission members before we take the vote?

**Dennis Cameron (Representative, State Bar of Nevada):**

I just wanted to be sure that it was predicated by that we would analyze data, but I think it needs to also include the second page in that where we continue our statutory duty in the evaluation of statewide sentencing practices and the impact that they may have.

**Chair Hardesty:**

I understand the motion to include the entirety of recommendation one, which goes on to the second page. There is a blank for dollar amount, and the reason the blank is there is because I had asked staff to develop a start-up cost for a nonpartisan staff that was consistent with what other commissions use. In Illinois, for example, their staff size is about six people.

**Mr. Cameron:**

Thank you, that answers my question.

**Chair Hardesty:**

Any other questions or comments before we take the vote?

**Senator Cannizzaro:**

The only thing I would note, I still have a little bit of a concern based on what we might learn from the Justice Reinvestment Initiative and what the role of the Commission will be. Obviously we have to, to Ms. Welborn's point, think about what we're doing in terms of legislation. I will say I do probably still have some questions, and as a member of the Legislature, we'll probably continue to have those questions as we go through the

legislative session. With that caveat, I just wanted the Commission to be aware that that is still a concern of mine.

**Chair Hardesty:**

I think in light of the conversation, I'll ask the clerk to call the roll of the members on this vote.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Hardesty:**

Let's turn to recommendation number two, which is related to recommendation number one and is, to a degree, repetitive but also speaks in terms of the format of a criminal justice impact statement ([Agenda Item VI A](#)). This is focused specifically on that Illinois example, but it could be modified or adjusted as the Commission deems appropriate. It would require the Commission to advise the Legislature on proposed legislation and make recommendations with respect to matters relating to elements of the state's criminal justice sentences imposed for felonies and gross misdemeanors through a criminal justice impact statement. Are there any questions or comments? This is a carryover from the staff decision but takes up the format of that kind of report.

**Jeff Segal (Bureau Chief, Attorney General's Office):**

I do have some concern about this recommendation because it seems to be focused on a fiscal impact on the cost of incarceration and so forth, and I'm not sure there's enough focus on the criminal justice impact of these types of decisions. It may very well be that there's a cost associated with passing a new law that creates a crime or enhances a sentence and that may have a cost, but unless we are also considering the fact that that law may decrease crime, may decrease losses or may deter crime, may decrease the suffering or losses that victims of crime suffer, then I think we're having a one-sided evaluation where we're going to focus all of our attention on "Well, this is going to cost X number of dollars to incarcerate somebody for a certain period of time," but we're not going to focus on the fact that this law may decrease the amount of crime that occurs and therefore enhance public safety. I've reviewed the Illinois reports and there is a lot of focus there also on the costs of these things in terms of the cost of incarceration, but there's not a lot of focus that I saw in "Well, this may actually decrease crime and save money in terms of the costs that crime incurs," whether it's costs to insurance companies, losses to victims, medical costs, all of those types of things. I have a feeling that what we're

going to end up with is just too much focus on costs and not enough focus on public safety. That's my comment.

**Chair Hardesty:**

I appreciate the comment, and I certainly respect the point. I was going to ask if everybody could turn to exhibit B in the packet ([Agenda Item VI A](#)). Look at the Illinois Sentencing Policy Advisory Council report, which I understand asks not only the question of the fiscal impacts but also asks the broader question about the impact that the decision has on public safety. My review of the report shows that it does that. I don't think it's intended to be a fiscal-only analysis. It's intended to look at not only the fiscal impact, the prison impact, but also it is used to compare—in this instance, they used as an example a theft statute, both theft and retail theft, and it provided tables that show the impact with respect to male and female on incarceration. It showed where some of these arrests and convictions were coming from. I think it's much broader. There was also a separate bill that was addressed to a proposed bill regarding meth delivery or possession with intent or aggravated meth delivery, and I think that report also was focused on how it impacts county jails fiscally and other incarceration methods but also offenders and where they come from and how many would be captured and how long they would be kept incarcerated. I would observe, Mr. Segal, your point is well taken that the impact statement is broader, or intended to be broader, than just a fiscal impact or just an incarceration impact or just a demographic impact. It is intended to also address the public safety nature of the decision itself. The recommendation here doesn't limit the Sentencing Commission to describe the components of the criminal justice statement, it only requires that the Sentencing Commission adopt or provide a criminal justice impact statement. I think that your concerns would be incorporated in the format of the statement that is proposed in this legislation. It doesn't direct the Commission to follow Illinois, that's an example. It simply directs that the Sentencing Commission will issue a criminal justice impact statement, and the components of that statement are fairly broad in the listing. If you want to expand the recommendation to be sure that it addresses other outcomes, the last sentence of the first paragraph directs that the statement is required to include other criteria such as impact, substance abuse treatment, mental health outcomes, disproportionate impact on race or gender. If it's not clear or ambiguous, it should also reference specifically public safety. That is the goal, I think, for such a statement.

**Mr. Callaway:**

I appreciate those comments. I too echo the same concerns with the Illinois language. Personally, I grew up in Illinois, and I don't have a lot of faith in anything Illinois does right now, with 84 people shot over a weekend in Chicago and the violent crime that occurs there on a daily basis. I just want to go on the record that I don't necessarily support the Illinois language. I do support the concept. I think that's the whole purpose of the Sentencing Commission is having the ability to, based on the data that we would receive and the recommendation we just voted on, make recommendations to the Legislature on sentencing. The question I would have regarding this proposal is the intent of this, and



we've seen several different models. Is the intent of this to make these recommendations on the forefront? For example, the Legislature considers a law for, let's say, a category B felony. Then, the Sentencing Commission, prior to that law being categorized, would conduct research and make a recommendation on where that should fall as a category. Or, is the recommendation more that the Legislature does business like they always have, and after a law has been passed and deemed to be, for example, a category B felony, over the course of the next several years, the Sentencing Commission would look at that and determine the impacts? I'm just trying to get my hands around this. Is it on the forefront or is it after the fact, the impacts?

**Chair Hardesty:**

Consistent with other sentencing commissions, Mr. Callaway, it would be the latter. It would be the forefront. To be clear, I see no reason that the criminal justice impact statement, in addition to other things that are listed here as to what it is required to report on, would not only report on public safety but also would report on impacts on victims, to the extent that the crime is a victim crime. The intent is to demonstrate or to provide independent data to the Legislature when making that decision about, first, whether to criminalize behavior, but then set categories for the punishment to understand all of the impact surrounding that decision, not just the fiscal impacts but also the impact on public safety, the impact on victims to the extent that it's a victim crime, the impact on property, for that matter. That was the intent of this recommendation.

**Mr. Callaway:**

As a follow up, I know the devil is always in the details when it comes to the wordage of the legislation. If I understand correctly, under this model, let's say the Legislature decides to pass a law next session for tampering with a gas pump because of all the skimming problems we have had with people getting their identities stolen. The gas pump is outside so a person doesn't have to enter the structure, so it's not a burglary. It doesn't fall under certain laws that are already in place, so the Legislature says, "Let's create a law of tampering with a gas pump because of all of these problems we're having with identity theft." Then they would just pass the law. They would not say it's a category A, category B, category C, it's a gross misdemeanor or whatever, they would just pass the law. The Sentencing Commission would then, under this model, step in and research that and say, "We want this to be a category C felony," or "We want this to be a gross misdemeanor," and if that's the case, how does that impact the timeliness of the legislative process once a bill is passed to when we actually see that law categorized into a crime and available for the criminal justice system to use that law as need be to address the problems? I guess that's what I'm trying to get my hands around is how would the Sentencing Commission under this function in relation to the Legislature determine what the category of the crime is, what the punishment is.

**Chair Hardesty:**

That impact statement, Mr. Callaway, would be provided to the Legislature before it made its decision, which would include the length of sentencing, so that the law becomes immediately effective once it's been passed. The idea here is to provide to the Legislature as much information about the decision they are about to make before they make it, so it isn't a deferral.

**Mr. Callaway:**

So, to that point, during the legislative session when 1,000 bills are running their course and our lawmakers here are dealing with that, at the same time, the Sentencing Commission would be meeting and looking at these 1,000 bills to determine the impact and making those timely recommendations during the 120 days of the session. The Sentencing Commission would probably be working just like the Legislature. It would be in session every single day looking at 1,000 bills during that 120-day process in order to make these recommendations.

**Chair Hardesty:**

Well, not all 1,000 bills are criminal justice bills. To the extent that they are criminal justice bills, yes, they would be reviewing those and the staff would be assisting the Commission in providing an analysis. The Commission would then debate those and pass on their reports to the Legislature. That is the approach that is taken by a number of the sentencing commissions around the country.

**Mr. Callaway:**

I appreciate that answer. Thank you, Justice Hardesty. I worked during the legislative session representing the Las Vegas Metropolitan Police District (METRO) and my section tracked almost 400 bills last session that had an impact on public safety and law enforcement. I just want to put out there that I think it's going to be a significant work process for those two entities to work in conjunction like that, recommending categories of crimes in conjunction with the Legislature, determining what needs to become a law. Putting my opinion on the record.

**Senator Kieckhefer:**

I think Mr. Callaway made some good points, and I'll point out as well that the 66 shootings in Chicago led to zero arrests. As you know, the process at the Legislature now is that we get a bill, we get a fiscal note that says the impact is indeterminate, we get a lot of anecdote about how effective the legislation is going to be to do one thing or another. I find the reports by the Illinois Sentencing Policy Advisory Council compelling in the amount of data that they provide. They can educate the legislative debate and help with their decision making. There are some process issues that are going to have to get

worked out. Illinois is full-time; they come in, they meet during the legislative session, they have a veto session in the fall, then they come back in the next winter. The timing on reports out of these commissions are different by state, so I think what would be important in any legislation is a recognition that our timeframe will not allow for a full analysis of every piece of legislation that comes out. We would have to put in some sort of timeframes in terms of which bills are going to be submitted. I'd recommend at least a deadline at legislator bill introduction deadlines or something to that effect for bills that will be transmitted to the Commission for review, and I think we'd have to offer some discretion to the Commission to decide which bills are going to be fully evaluated. It would be impossible for the Commission to review 400 pieces of legislation as Mr. Callaway was indicating and provide in-depth analysis, but there are probably a handful that are going to be more impactful than others. I think we would have to offer some discretion to the Commission staff, the executive director and chair to sort of find the wheat through the chaff. As a concept, I'm fully supportive. I think the more data I can have in front of me when I'm making a decision about a piece of legislation is valuable, and frankly, the data that we get now is minimal, which is probably why we've got some of the issues that we've been talking about over the course of the summer.

**Mr. Burton:**

When I read the recommendation prior to today and then again this morning, I think the spirit of the recommendation most of us agree with, with regard to the criminal justice impact. We know what that means, but I also think words are important. I think words like victim impact and public safety need to be incorporated within the recommendation with regards to the draft legislation.

**Chair Hardesty:**

I had made a comment about expanding the last sentence of the first paragraph to incorporate those concepts. Would that satisfy your concerns or address your question?

**Mr. Burton:**

Yes, thank you.

**Chris Hicks (Washoe County District Attorney):**

I struggle with recommendation number two, and I'll tell you a few reasons why. First, I'm fully in support of recommendation number one because I think everybody here agrees that we need to get our data. We need to get it collected and begin to analyze it. Recommendation two seems a little premature to me at this time when we don't even have recommendation one, a system, in place to do this. We do already have a system in place to get fiscal notes as was listed in the materials, and I just don't know in an overall scheme if it's really even something we ever want to get into as a Sentencing Commission, and here's why. All I can really base it on is what I've read in the Illinois

criminal justice impact statements, but to me, there seems to be almost a partisan undertone about just diminishing the prison population. The second Illinois report is the one that I found the most interesting. I found it to be very misleading. This recommendation was sought to complement our duty of reporting on all matters relating to elements of this state's system of criminal justice. Those Illinois reports do not speak to all matters relating to the elements of the state's system. They nominally consider victim impact, which I think is a huge factor that has to be considered. When they do consider victim impacts—I read their methodology yesterday. It's very difficult to follow, but it is largely based on their definition of recidivism, and we don't even have that yet in Nevada. That's another hurdle that I think we would encounter. In addition to victims, I see an even broader problem than just public safety, and that's quantifying societal costs. I'll refer to the second example. This was a criminal justice impact statement out of Illinois on a bill that proposed larger sentences for any drug dealer who was dealing methamphetamine or who dealt methamphetamine within 500 feet of schools, churches, parks or playgrounds, which I think is public policy that just about anybody in here would agree with. That makes sense, protecting our vulnerable populations from methamphetamine dealers. The research they do to try to form the impact is questionable to me because what they did is they went back several years, they analyzed everybody who was convicted of dealing methamphetamine, then they look to see where they were caught dealing methamphetamine and if that was within one of those protected zones. Then, they automatically accounted for those and assumed that those would be people that would be impacted in the future, if that makes sense, but they never took into account prosecutor discretion. They never took into account plea-bargaining, so you're not even certain that's going to be the necessary impact, because I know through my experience that there would be plea-bargaining. They ultimately come to the conclusion that it would be just 25 additional inmates out of what I can imagine to be a tremendously big prison population in Illinois, and that would be an additional cost. Now, the cost seemed to be the biggest focus in these reports. It's right at the top that there would be an additional cost if this bill passed of \$532,000 a year. For victimization, they come up with less than \$500 in victim benefits. I just don't see that, and here's my biggest problem when I talk about societal costs and why I think this is really a kind of difficult area for us to get into as a Commission. We all know in this room that drug dealers in a community, their victim is the community. Their victim is those that become addicts, the society that its quality of life is degraded because of all the problems that come with addicts, all the problems that come with drug dealing. I'll stick with the addict example. If we're talking about people dealing drugs in our community, that creates addicts who have to go to treatment—costs; who rip apart families—costs; who end up going on probation—more costs; who end up going into drug court—more costs; who might end up ultimately going into prison—more costs; who might have kids they can't take care of or have to be taken away from them—more costs on the state. In the bigger picture, the societal costs of, for example, drug dealing in a community of methamphetamine is immense, and you consider the fact that this particular bill was saying don't do it around schools, don't do it around playgrounds, don't do it around churches which, frankly, I would think has the propensity to create even more of those societal costs by the vulnerable populations that are there. We're talking about societal impacts that are millions of dollars, and what this report ultimately comes

to the conclusion is that the net benefit of this legislation, which I frankly think everybody would agree with is sound—we have it in Nevada—the net benefit according to this criminal justice impact statement is \$-532,000. To me it seems that the Illinois model is almost a partisan document to kind of support almost anti-legislation for further criminal justice sanctions. I struggle with that. I definitely think that the suggestions that have been made of adding public safety, victimization as considerations, that's an absolute no-brainer. We have to have that if we're going to entertain something like this. But on top of that, there are societal costs that just can't be quantified. They are immense. They far outweigh any prison costs. I don't know how we could ever quantify them to truly give a legitimate, objective, unbiased criminal justice impact statement, and so, candidly at this point in the game, I'd definitely oppose recommendation number two because I just don't think as a Commission we are there yet. If we ultimately do come to that kind of recommendation, I think we have to do so much more than Illinois did, because any time you're going to be presented with a document that says the net benefit is \$-500,000, you're starting off in the hole, where in reality this is, in public policy, a very smart piece of legislation. That's all I wanted to share on that topic.

**Chair Hardesty:**

I appreciate the criticism of the Illinois criminal impact statement, but the legislation doesn't call for an Illinois criminal impact statement. It calls for a criminal justice impact statement generally, so the concept was for the Sentencing Commission to develop the components, the elements, of such a statement. There are lots of other examples that one can look to, and since we're up against this deadline, that's what I was proposing we debate. If it's the Commission's desire to not pursue recommendation number two, then there will be an outstanding question about what kind of report is the Sentencing Commission going to supply to the Legislature during the course of its deliberation on proposed bills. I guess it could be ad hoc. The Sentencing Commission could develop it as it chose to go forward, but it just seemed to me that the concept of a criminal justice impact statement and its components would be something that the Commission would be developing if that legislation passed. It certainly takes into consideration all of the things, maybe not the societal costs, but certainly all the things that you've referenced, Mr. Hicks.

**Mr. Hicks:**

Thank you and I understand completely what you're saying Chair Hardesty. I personally think this is such a new Sentencing Commission, we are working with the criminal Justice Institute, we're still trying to collect the data that, in fact, maybe this legislative session all that we really need to focus on is recommendation number one. For recommendation number two, I think a report to the Legislature of the Sentencing Commission of what we're doing and the State of Nevada's sentencing and prisons, or however you want to frame it, is a very good start. I just think we might not be in a position yet to undertake the colossal effort of a legitimate criminal justice impact statement that truly does consider both positives for increased sanctions and not only negatives. I have looked at others as well and I didn't find full confidence in those either. Thank you.

**Assemblyman Ozzie Fumo (Assembly District No. 21):**

I just wanted to say that I do support recommendation number two. I don't disagree with anything that anybody else has said necessarily, but as a legislator, when I'm casting the vote or pushing the button, knowledge is power, and the more information we have, like Senator Kieckhefer said, the better. Whether it's information on incarceration, whether it's alternatives to sentencing, whether it's victim impact statements, societal impacts, the more information we have as legislators, the better for us, so I fully support recommendation number two.

**Chair Hardesty:**

We don't have a pending motion yet, which of course we will debate if there is one. Does anybody wish to make a motion?

**Assemblywoman Tolles:**

Hearing all the comments that have been made, I certainly appreciate some of the concerns particularly about not necessarily the merit of this recommendation but the timing and the process. I'd like to echo the sentiment of my colleague Senator Cannizzaro in recommendation number one of just the concern of putting the cart before the horse knowing that we're going to have a major data initiative coming forward, that when we have better data after we have the chance to collect all that data then we will be, I think, better equipped to form recommendations on the impact, balancing all of the areas that were brought forward, everything from the costs of incarceration to the costs to society. I would add to that, to Mr. Hicks's statement, that not only the cost to the families and vulnerable populations but also an additional cost to real estate values that creates issues with revenues. That has an impact on our counties and local municipalities and the ability to collect property taxes. There is so much more that is complex to that analysis that I am in full support of the recommendation in the future. My concern more is are we ready to put it forward now and then set an expectation that legislators like myself and my colleagues here and down south would be able to have an expectation that we would have fully vetted data being brought to us as we are considering. It's more an issue of timing and making sure that we have a robust calculation that could be ready, and based on data with these other initiatives that we're currently working on with the Justice Reinvestment Initiative. My question after that very lengthy introduction is, is it possible for this Commission to instead of making this as a sound recommendation to alter it to a consideration for future consideration to include in the report but to not make an official recommendation? Do we have another option available to us so that this still is given consideration?

**Chair Hardesty:**

The Commission has any options it wishes to take, everything from making no recommendations to recommending legislation. It is whatever anyone would like to

propose or offer, including passing on the subject matter. It is unfortunate for the Sentencing Commission that we have a deadline built into a statute when we, at least in my view, have made a lot of progress in getting the input from the Crime and Justice Institute, but I would hate to have the Crime and Justice Institute's analysis and recommendations prevent us from making progress on various recommendations at the same time. That's why most of the other recommendations that are contained here are in the form of just that, recommendations or letters, except for the recidivism subject matter which we will turn to in a few minutes. If one wants to defer on this subject, or if instead it's a recommendation to this Commission that it study the content of a criminal justice impact statement going forward, it certainly could do that. That is an alternative, perhaps, that addresses your comments, maybe. I don't know.

**Assemblywoman Tolles:**

Thank you for those comments, and could that be nestled under recommendation number one, that the future continuance of this Commission, it would be one of their duties to further analyze the content and make a more fully vetted recommendation when we have more complete data?

**Chair Hardesty:**

Certainly you could. I suppose another alternative is to say you don't even need the legislation for criminal justice impact. The legislation compels the Sentencing Commission to do that, but certainly the Sentencing Commission can generate whatever recommendations it chooses to do if it has the staff to do it and it's being requested for certain reports and it can produce those reports and be debating those reports, and obviously part of that debate is going to include the format of those reports. Maybe this is an issue that is obvious that the Commission is going to have to take up at some juncture when you're in the process of providing information and data out. Does anybody else have any comments or suggestions on this recommendation or an alternative to this recommendation?

**Senator Cannizzaro:**

From the way that we are reading this, and I think some of the dialogue we've had, it seems that this Commission would operate during the legislative session in order to produce these reports. Am I correct in assuming that based on the language and the discussion today?

**Chair Hardesty:**

Yes, subject of course to some of the discretionary limitations that Senator Kieckhefer observed and some timing issues, all of which would have to be developed.

**Senator Cannizzaro:**

Sure, and I think that's where my concern is with that question. It's just where to fit that into the 120 days for those of us who, which I think is most of the folks on this Committee, are very active in the legislative session. I think my comment is more that I would prefer, Mr. Chair, your suggestion that maybe this be something that the Commission decides what goes into these reports, because I think if I'm evaluating what everyone is saying, there are some different ideas about what would go into this recommendation to the Legislature, whether it would be as comprehensive as this one from Illinois, whether it would include additional items, and so I think my preference would be that the Commission have that dialogue and we talk about what we would want to have in a criminal justice impact statement. I do think that can be powerful. To my colleague Assemblyman Fumo's point, I think that the more knowledge we have as legislators when we're making these decisions the better we are able to make sound decisions. So, I don't necessarily oppose a criminal justice impact statement to accompany legislation, but I think in terms of what that would include and how we would go about compiling those and producing those to the Legislature, I think that's something that maybe we should continue to discuss as a Commission.

**Chair Hardesty:**

I'd like to offer a suggestion and perhaps a motion, if someone would like to make it. Instead of recommendation two as drafted, I would like to propose that recommendation two would consist of this language: draft legislation requiring the Nevada Sentencing Commission to study the use and components of a criminal justice impact statement.

**Mr. Hicks:**

Justice Hardesty, if I may, my question is do we have to have it in statute or as legislation? Can't we as a body just choose to study that like we've done all the other studies we've—up and until now the great work we've done thus far without having to get it on the books, so to speak, as of yet?

**Chair Hardesty:**

Certainly the Sentencing Commission has the discretion, I would think, to address its duties however it chose to address its duties, with or without the language that I just noted. Does anyone wish to make a motion with respect to the subject matter of recommendation number two? Seeing none, then let's turn to recommendation number three.

Recommendation number three proposes to draft a letter to the Advisory Commission, the Governor and the Legislature supporting the efforts of the Justice Reinvestment Initiative. My suggestion on this recommendation is that we defer it since it doesn't involve legislation until our joint meeting where we hear the report from JRI. Does anybody have



an objection or would you like to debate or discuss this recommendation further before moving on?

JUDGE TOGLIATTI MOVED TO DEFER RECOMMENDATION NO. 3.

MS. MACHNICH SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Hardesty:**

We will defer recommendation number three to the next meeting of the Sentencing Commission where we are aware of or have information about the JRI recommendations. Let's turn to recommendation number four. This recommendation comes out of the debate and discussions about the lack of or the clarity of the definition of the word recidivism. It doesn't answer the question, it simply urges legislation to resolve this question. Would anyone like to see such a recommendation put forward to either the Legislature or resolve this issue ourselves? I will say that this too is something that one might wish to defer until we have the JRI recommendations since certainly that question will be part of some of the data that's developed and data responses that we receive. Any comments with respect to this recommendation?

**Mr. Dzurenda:**

So, JRI is going to be looking at with the ACAJ the criteria that pew uses in the other states. It's not as simple as a recidivism rate as it should be. There are states you have to calculate in—some systems combine jails and prisons, that's one option. There are certain states that deal with more Immigration and Customs Enforcement (ICE) detainees and deportations than other states. Those have to be calculated into recidivism, I think, or taken out of recidivism, because there are certain states that will calculate in successful recidivism by sending offenders back to Puerto Rico or wherever permanently. They won't see them in the next 3 years, obviously, because those countries impose sanctions on them as well, but they calculate them in as successful recidivism and it helps their numbers. There are a lot of factors that are in place that are going to affect recidivism rates and what is the real definition, and that's why that second chance reentry grant that the State of Nevada got that we're in the second year of 3 years calculates only their return to the prison system that are Nevada residents because it is calculating in the effects of recidivism on the state as a whole, not everything. We've got to look at those things. Nevada has 18 percent of the prison population are not from the State of Nevada. Do you calculate those into the system into recidivism? There are a lot of factors that go

into play that we really have to look at, and that's what JRI is looking at. They look at specific states. They look at the impact that it has on your communities, not the country and not international as a whole, so there are a lot of factors. Recidivism has been a problem defining over states many, many years. This isn't something new. Every state does do it differently. There are different definitions. The second chance reentry grant stuck with just the impact that it makes on the prison population for that state, so that's why it's complicated in the numbers and the definitions around the state, and Pew has a problem with that as well.

**Chair Hardesty:**

Director, I take it from your remarks, but I don't want to misinterpret them, that you believe we should defer on this.

**Mr. Dzurenda:**

That is correct, because that is what JRI is trying to look at for the State of Nevada as a whole.

MR. DZURENDA MOVED TO DEFER RECOMMENDATION NO. 4.

MR. PONDER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Hardesty:**

We will defer as we did with recommendation number three. We've addressed number five, so let's turn to number six. This is a letter of support for additional funding for the Division of Parole and Probation, the Department of Corrections and the State Board of Parole Commissioners. It's a general letter of support for the financial support for those agencies. Does anybody wish to comment further about this recommendation?

**Ms. Welborn:**

I just want to state that I will be supporting this recommendation today. The American Civil Liberties Union (ACLU) is not typically in the position to really advocate for funding of correctional systems. However, I've been compelled by much of the testimony, particularly from Director Dzurenda, in regards to several different programs, the need to increase staff, the need to increase staff to meet the requirements of the Prison Rape

Elimination Act (PREA) when it comes to the youthful inmates who are housed at the Lovelock Correctional Center. I've been engaged with his Department for several months now on addressing that issue and really looking at the youthful offenders and how the state can really address that and trying to find reasonable solutions in the next legislative session. For those reasons, because I don't think that we're looking at an increase in any kind of new facilities, that it's really at the end of the day policy-wise a way of protecting those offenders and the people who are involved in these programs, I will be voting for it.

**Chair Hardesty:**

Any other questions or comments by Commission members about this recommendation?  
Is there a motion?

**Mr. McCormick:**

I would move we adopt recommendation number six, but also include the caveat that this funding not be fee funding, it would be general fund support.

MR. MCCORMICK MOVED TO APPROVE RECOMMENDATION NO. 6 AS AMENDED.

MR. BURTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Hardesty:**

The last recommendation made in the work document is a draft of a letter to the Governor and the Legislature recognizing and supporting the financial and substantive needs of the specialty court program in Nevada. The recommendation would include a request for an additional \$3,000,000 appropriation, and that should be per year, to the specialty court program beyond the current general fund appropriation of \$3,000,000 per year. Is there any discussion on this particular item?

**Senator Kieckhefer:**

Back to the state budget issues, this one is just a little too specific for me to support. It is doubling the appropriation for a specific program, so I will oppose it at this time but certainly consider it when it comes to the Legislature in 2019.

JUDGE TOGLIATTI MOVED TO APPROVE RECOMMENDATION NO. 7.

DR. NEIGHBORS SECONDED THE MOTION.

**Chair Hardesty:**

Is there any discussion on the motion? Because of the possibility there may be some differences of view on this, we will call for a roll call.

**Judge Jennifer Togliatti (Eighth Judicial District Court):**

Chair Hardesty, I didn't make a statement earlier, but perhaps before we take the vote I would just want to state for the record that as the competency judge for Clark County, last year I had 1,100 cases where persons charged with crimes were evaluated for legal competency, which is, under the Dusky case, a very—shall we say, not an incredibly difficult standard to meet. I understand that the specialty courts have a big focus on drug addiction and all of that, and I always appreciate those programs and they're exceptional in what they do, but I just want to highlight that specialty courts also include mental health courts and services for the mentally ill, which in Southern Nevada is a profound problem.

**Mr. Hicks:**

I have a question. I recall Justice Douglas's presentation to this group. I don't recall an explanation of where the existing \$3,000,000 goes and where the expected additional \$3,000,000 would go, and I'm just reluctant to support something unless I know what the intended use is. I'm a big supporter of specialty courts, but as has been said before, the devil is in the details, and I worry about funding for the necessary stakeholders and the best practices of specialty courts, the district attorneys and public defenders who also need to be there but who don't get the funding with these additional courts. I'm curious, do we know where this additional \$3,000,000 appropriation would go? Is it for rural jurisdictions? Is it for the two urbans?

**Chair Hardesty:**

To recall, if I could, for the Commission, Justice Douglas made a presentation here, and the existing appropriations are provided to the Specialty Court Funding Committee, a Committee of the Supreme Court which makes the decisions about how to allocate those funds. That Committee's report is provided to the Legislature as to how it was allocated, where it was directed, which courts got it and how it was used. That report was provided in the last session and it will be provided again this next session. The initial use of the funds was to expand participation throughout the state, and the Specialty Court Funding Committee demonstrated that in their presentations to the Legislature and in Justice Douglas's presentation here. The testimony by Mr. McCormick before the Advisory Commission in his presentation was similar to that of Justice Douglas. There is currently

a need in excess of \$15,000,000 beyond what the specialty courts are using in order to meet the needs of those who would be placed in specialty courts. The intention of this funding is to move toward providing that shortfall. It is all directed at the provider cost to expand participation in both substance abuse, drug courts and mental health courts, to address the question by Judge Togliatti, as well as to meet additional shortfalls in other programs that are mandated by the Legislature, such as veterans' courts. A number of veterans' courts are operating essentially year to year on grants without any sustained funding source. All of that was articulated some months ago in Justice Douglas's presentation, and more equally specifically, I suppose, in Mr. McCormick's presentation to the Advisory Commission. The funds are not intended to support or be used for additional public defenders or district attorneys who participate in those programs. I appreciate the concerns that are present there, but it is intended to expand participation and availability of the programs to address these. As you may recall and as the notes indicate, this is sort of a double downing similar to what had been done in Oregon. You will recall the two Oregon presentations where they had doubled down their investment in the use of these courts to be proactive in this area. They initially invested \$15,000,000 and they expanded that, more than a double down, to \$40,000,000, and so this proposal would ask our Legislature to double down, if you will, in the general fund contribution. Also, to recall, until 2015 when the Legislature approved the additional \$3,000,000 per year, there have been no general fund contributions to specialty courts in the state. It had all come from fee-based contributions, again, going after traffic violators to help support drug courts, so this was another step toward trying to secure support from the general fund for this effort. That's a general description of how the money would be used. The Legislature has deferred to the Supreme Court Specialty Court Funding Committee. That Committee, by the way, is made up of every single specialty court representative throughout the state and they debate—I don't want to use the word fight, I'll just say debate—how those funds should be allocated. It is also built around a set of adopted standards for best practices for the use of those funds and the operation of those courts. The Specialty Court Funding Committee is currently chaired by Justice Douglas and Justice Gibbons. It will probably have a new chair after the first of the year after Justice Douglas's retirement.

**Mr. Hicks:**

Thank you. I would just make note for the Committee, maybe I should go to one of those one of these times, but the rurals I know need the funding for that kind of thing. Washoe County has to take in several of our adjoining counties, which then becomes a burden on my office which we do our best to cover, and some of the municipalities as well push their drug participants into our Washoe County courts, and so I think that that would be a good way to look at some of that funding. Also, I recall Justice Douglas stating that there hasn't been the best data collection over the years as to success rates and true analysis of the success, I guess, of these individual courts. That would be also a good use for that funding.

**Chair Hardesty:**

I think it is the case that accountability has been an issue that's been impressed by members of the court on that Committee and it's an ongoing concern, but certainly one that they've made some improvement on. Maybe Mr. McCormick can comment further since he staffs that in part.

**Mr. McCormick:**

As far as success rates, our data collection on that is getting more robust as all funded programs are required to use our drug court case management system. Since we've implemented that, we have enough data there to start making some long-term comparisons and statistical trends. We have been working towards that end for several years, and generally we do try to provide that information in our annual report as you referenced earlier. I hope that answers it. I can talk a little bit more if need be.

**Chair Hardesty:**

Mr. McCormick, can you address the comments by Mr. Hicks? He's right; there is a lot of transfer of defendants, or shipping of defendants, between districts in order to accommodate resources in the urban counties as opposed to the rural counties. It does put some pressures on the courts in the urban counties. I hadn't appreciated the District Attorney's Office as much, but certainly that is a problem. Could you comment about the transfer of defendants and supervision between and among counties?

**Mr. McCormick:**

There are statutory provisions allowing for that transfer at the limited jurisdiction levels so long as the transferee court accepts the transfer, so that's worked out between the two courts. There's also the opportunity in the same way to transfer between district courts. I think that the impact on district attorneys' offices and public defenders' offices is not confined just to one specific county or one specific court. I think that's kind of statewide as far as having the necessary resources. The Specialty Court Funding Committee has discussed that. They recognize the issue. However, with the limited funds, the Committee has tended to devote those funds almost exclusively to the treatment costs. They allow a very minimal amount for coordinators' salaries and a little bit for operating, but the vast majority of those funds go to treatment and testing.

**Tegan Machnich (Chief Deputy Public Defender, Clark County):**

I cannot state strongly enough as a public defender how important these programs are. We obviously have different funding sources than this general fund appropriation to the specialty courts, but we would not be concerned about increased participation. We would support that. This helps criminal defendants and it helps communities, it helps families, it helps people be successful going forward, and we absolutely need to support them. Right

now, some of the criminal defendants waiting for the programs for their grant of probation are sitting months and months in county custody waiting for these slots, waiting for these beds, and it only increases chances of success to have more funding to be able to move the defendants through the system more smoothly and give more people opportunities to be successful. Obviously, we do not have the data for successful completion rates yet, but anecdotally, the chances of a criminal defendant who has a severe mental health issue or a severe drug issue being successful when they have the assistance of a specialty court program is exponentially greater than if these same individuals are placed on supervision without that type of support and the type of probation officers and judges who understand their unique situations and what they face. Obviously, we have issues with the competency court programs. No one voluntarily goes to competency court. That is something that has to be staffed, has to be paid for and must be funded.

**Chair Hardesty:**

Seeing no further comment on the motion, will the clerk please call the roll?

THE MOTION PASSED (SENATOR KIECKHEFER VOTED NO).

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**Chair Hardesty:**

The motion passes and that letter will also be prepared. Finally, I'd like to inquire as to whether there were any recommendations for legislation, first, to be offered by any other Commission member beyond those that were captured and reported by staff. Does anyone wish to make any recommendations or propose any recommendations that would be in the form of policy or letters beyond those that were captured in the staff work document? Seeing none, I believe that we have addressed our work for now. As noted earlier, we'll be reconvening the Sentencing Commission toward the end of the Justice Reinvestment process with the Advisory Commission in a joint meeting with them and we'll take up the two recommendation areas that we deferred at that time, which are certainly not constrained by the current statutory limitation on draft legislation.

I will now open agenda item VII, public comment. Seeing none, I will adjourn this meeting at 11:12 a.m. Thank you all, Commissioners, and we will see you again in the next couple months.

RESPECTFULLY SUBMITTED:

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Jordan Haas, Secretary

APPROVED BY:

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Justice James Hardesty, Chair

Date: \_\_\_\_\_



<b>Agenda Item</b>	<b>Witness/Agency</b>	<b>Description</b>
A		Agenda
B		Attendance Roster
<a href="#"><u>Agenda Item IV</u></a>	Jordan Haas, Secretary	Draft Minutes from the August 2, 2018 Joint Meeting of the Nevada Sentencing Commission and the Advisory Commission on the Administration of Justice
<a href="#"><u>Agenda Item VI A</u></a>	Nicolas Anthony, Commission Counsel, Legislative Counsel Bureau	Work Session Document
<a href="#"><u>Agenda Item VI B</u></a>	Mindy McKay, Records, Communications and Compliance Division	Additional Information Submitted for Consideration of Work Session Recommendation No. 5
<a href="#"><u>Agenda Item VI C</u></a>		Possible Recommendations for Proposal During the Work Session
<a href="#"><u>Agenda Item VI D-1</u></a>	Tegan Machnich, Chief Deputy Public Defender, Clark County	NDOC Presentation Submitted for Consideration of Work Session Recommendation No. 5
<a href="#"><u>Agenda Item VI D-2</u></a>	Tegan Machnich, Chief Deputy Public Defender, Clark County	NCSL Presentation Submitted for Consideration of Work Session Recommendation No. 5