



# Criminal Justice in Nevada

## Part I: Overview

2010-2011 Policy and Program Report  
Produced by the Publications Unit, Research Division, Legislative Counsel Bureau  
February 2010

### OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM

In the United States, generally each state maintains independent jurisdiction over the areas of criminal justice, corrections, and juvenile justice. Therefore, each state, as a matter of policy, determines what constitutes a crime and sets the appropriate punishment or penalty. Further, each state is responsible for the operation of prisons and other facilities to house the individuals who have been convicted of criminal offenses within its borders. Finally, each state independently develops a juvenile justice system and determines whether a minor who commits a criminal offense should be treated as a child or as an adult for purposes of prosecution and sentencing.

### CRIMINAL JUSTICE

The most dramatic change to criminal justice in Nevada was the adoption of “truth-in-sentencing” legislation. During the 1995 Session, the sentencing procedure in Nevada was reviewed extensively. To address the inadequacies of the existing system and to provide for “truth-in-sentencing,” the Legislature passed Senate Bill 416 (Chapter 443, *Statutes of Nevada 1995*), which became effective on July 1, 1995.

The Legislature reviewed laws in other states that simply required offenders to serve 85 percent of their sentence, but this approach was rejected. Senate Bill 416 was designed to achieve the goal of actual “truth-in-sentencing” by providing a system for sentencing offenders under which the judge, the victim, the public, and the prison system know precisely the minimum amount of time an offender will serve at the time the sentence is given. Sentences for all offenders were reviewed and revised based upon the seriousness of the offense. For the most violent offenders, sentences were increased.

#### *Truth-in-Sentencing*

Under the truth-in-sentencing scheme, a judge imposes a sentence that includes a minimum and maximum period of years to serve in prison. The

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EXHIBIT E-3 NevadaStakeholder Document consists of 10 pages.

☒ Entire document provided.

A copy of the complete document is available through the Research Library (775/684-6827) or e-mail [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us). Meeting Date: 4/6/10

offender is required to serve 100 percent of the minimum sentence, and there is no parole eligibility during this period. In addition, no credits apply to reduce the minimum sentence. After serving the minimum sentence, the offender is eligible for parole and sentence-reducing credits which apply to the remainder of the sentence, reducing the maximum.

For example, the new statutory range for imprisonment for the crime of robbery is two to ten years. The judge must sentence the offender to a period within this two- to ten-year range, such as “four to ten” years. The offender will not be eligible for parole or sentence-reducing credits until the four-year minimum has been served. After this time, the offender is eligible for parole.

Sentence-reducing credits apply to the ten-year maximum. Based on calculations by Nevada’s Department of Corrections (NDOC), a maximum sentence of ten years may be reduced to six years if the offender behaves in prison and participates fully in work and educational programs offered. The judge retains the discretion to impose higher sentences upon the offenders where aggravating circumstances exist, and lower sentences upon offenders where mitigating circumstances exist. The minimum sentence imposed must not be more than 40 percent of the maximum sentence to ensure that the offender will have a sufficient period of time left on his sentence after the application of credits. During this remaining time, he will be supervised by the Division of Parole and Probation (P&P), Nevada’s Department of Public Safety, if he is released on parole.

Following are the minimum and maximum sentences the judge may impose for robbery, the minimum parole eligibility, and the estimated expiration of the maximum sentence if the offender behaves in prison:

Sentence Judge Imposes	Minimum Parole Eligibility	Expiration of Sentence
2 to 5 years	2 years	3 years
2 to 6 years	2 years	3.6 years
2 to 7 years	2 years	4.2 years
2 to 8 years	2 years	4.8 years
2 to 9 years	2 years	5.4 years
2 to 10 years	2 years	6 years
3 to 7 years	3 years	4.2 years
3 to 8 years	3 years	4.8 years
3 to 9 years	3 years	5.4 years
3 to 10 years	3 years	6 years
4 to 10 years	4 years	6 years

### ***Felonies and Misdemeanors***

In Nevada, a crime is defined as “an act or omission forbidden by law and punishable upon conviction by death, imprisonment, fine or other penal discipline.” Every crime which may be punished by death or by imprisonment in the State prison for a period of one year or more is a felony.

### Felonies

In an effort to instill consistency and rationality in sentencing patterns, S.B. 416 established categories for felonies based on the type of sentence that may be imposed. The felonies contained in each category carry like sentences and are similar with regard to the nature of the offense. Each felony is placed into one of the following five categories:

- *Category A*—Felonies for which the judge may impose a sentence of life or life without the possibility of parole. Felonies carrying a potential sentence of death are also included in this category.
- *Category B*—Felonies for which the judge may impose a sentence that is not less than 1 year or more than 20 years.
- *Category C*—Felonies for which the judge may impose a sentence not less than one year or more than five years.
- *Category D*—Felonies for which the judge may impose a sentence not less than one year or more than four years.
- *Category E*—Felonies for which probation is mandatory, but the judge must impose an underlying prison sentence of not less than one year or more than four years. In 1997, the Legislature modified the penalty for a category E felony to provide that if an offender has a lengthy criminal history to impose probation or send the offender to prison.

### Misdemeanors

Nevada currently does not categorize misdemeanors in the same manner as felonies. The 2001-2002 Legislative Commission's Subcommittee to Study Categories of Misdemeanors reviewed whether misdemeanors should also be categorized; however, the Subcommittee as a matter of policy decided to maintain Nevada's current system of misdemeanors. Presently, there are over 1,400 offenses in Nevada law which may be punished as a misdemeanor or a gross misdemeanor. It should also be noted that unless otherwise defined by statute, each criminal offense in Nevada is punishable as a misdemeanor. For purposes of the *Nevada Revised Statutes*, the classes of misdemeanors and the corresponding penalties are as follows:

- *Misdemeanor*—Fine of not more than \$1,000 or imprisonment in county jail for not more than six months, or both a fine and imprisonment, unless the statute defining the crime prescribes a different penalty.
- *Gross Misdemeanor*—Fine of not more than \$2,000 or imprisonment in the county jail for not more than one year, or both a fine and imprisonment, unless the statute defining the crime prescribes a different penalty.

## CORRECTIONS

Nevada's Department of Corrections is responsible for the housing and treatment of offenders sentenced to State prison. The Department of Corrections is governed by the Board of State Prison Commissioners, which consists of the Governor (as Chair), the Secretary of State, and the Attorney General.

All correctional institutions and facilities within the State of Nevada are financed by public monies and are operated by NDOC.

The Department of Corrections generally intakes all persons sentenced to State prison and then classifies prisoners, based on risk assessment, and assigns the individual to the appropriate risk-defined facility. Currently, NDOC operates 18 facilities statewide, including: 8 institutions, 8 conservation camps, 1 restitution center, and 1 transitional housing center. The facilities in the State are as follows (the capacity indicated is the capacity approved in the Fiscal Year [FY] 2010 NDOC budget for each facility):

### INSTITUTIONS

Ely State Prison Male/Maximum Ely Capacity: 1,171	Nevada State Prison Male/Medium Carson City Capacity: 806
Florence McClure Women's Correctional Center Female/Multisecurity North Las Vegas Capacity: 748	Northern Nevada Correctional Center Male/Medium Carson City Capacity: 1,464
High Desert State Prison Male/Medium Indian Springs Capacity: 2,517	Southern Desert Correctional Center Male/Medium Indian Springs Capacity: 1,901
Lovelock Correctional Center Male/Medium Lovelock Capacity: 1,752	Warm Springs Correctional Center Male/Minimum Carson City Capacity: 526

### RESTITUTION CENTER AND TRANSITIONAL HOUSING CENTER

Northern Nevada Restitution Center Male/Community Trustee Reno Capacity: 76	Casa Grande Transitional Housing Center Male/Community Trustee Las Vegas Capacity: 340
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**CONSERVATION CAMPS**

Carlin Conservation Camp Male/Minimum Carlin Capacity: 131	Pioche Conservation Camp Male/Minimum Pioche Capacity: 176
Ely Conservation Camp Male/Minimum Ely Capacity: 130	Stewart Conservation Camp Male/Minimum Carson City Capacity: 350
Humboldt Conservation Camp Male/Minimum Winnemucca Capacity: 130	Three Lakes Valley Conservation Camp Male/Minimum Indian Springs Capacity: 238
Jean Conservation Camp Female/Minimum Jean Capacity: 173	Wells Conservation Camp Male/Minimum Wells Capacity: 130

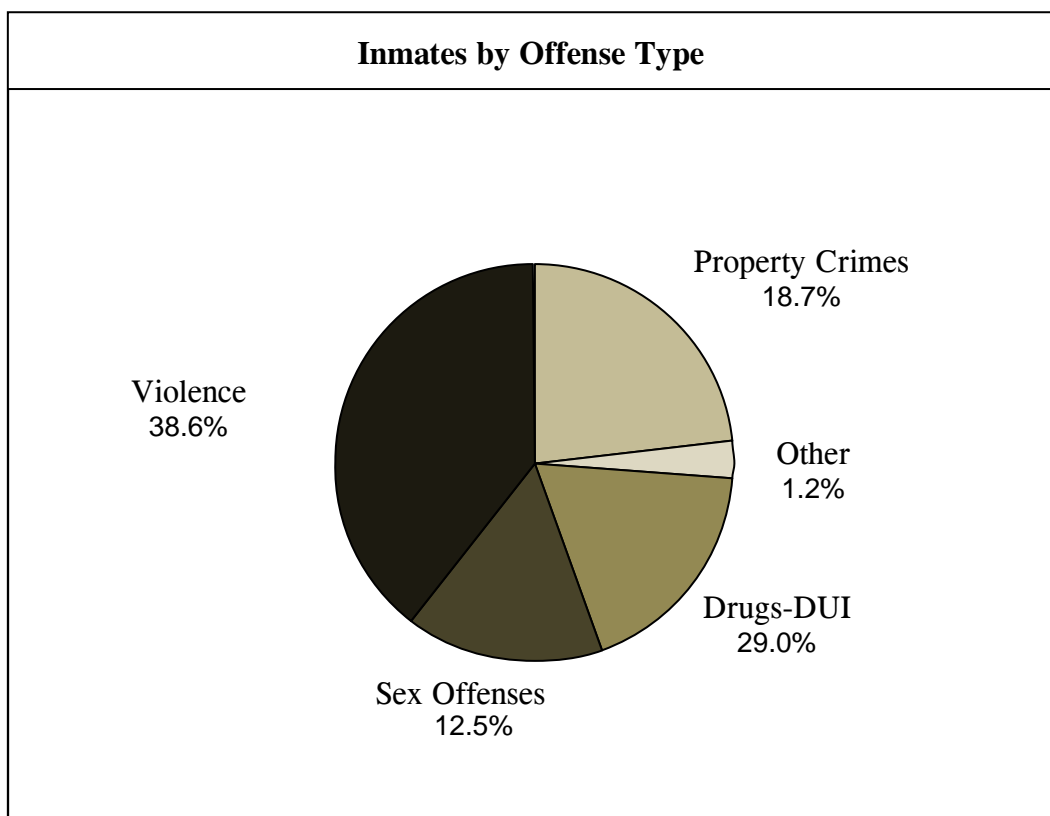
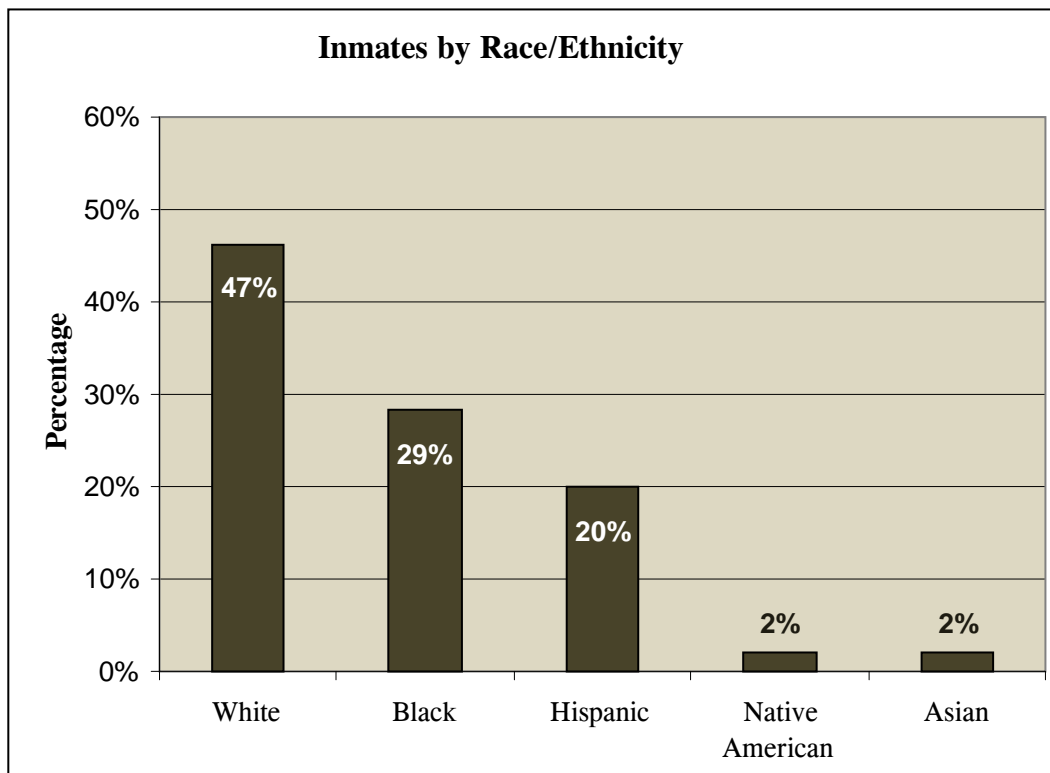
As of December 2009, NDOC is responsible for 12,512 incarcerated inmates. The breakdown of the population is approximately 93 percent male and 7 percent female, with a median age of 37 years for males and 36 years for females. At present, 81 inmates (or 3.11 percent of the prison population) are housed on death row; the death row population fluctuates frequently pending the outcome of legal appeals. About 16 percent of all inmates are serving life sentences without the possibility of parole; 80 percent are serving life sentences with the possibility of parole.

The NDOC houses inmates serving felony sentences, as follows:

**INMATES BY FELONY CATEGORY**

A	26 percent
B	63 percent
C	7 percent
D	3 percent
E	1 percent

The following charts offer a snapshot of the correctional population as of December 2009:



## PAROLE AND PROBATION

The Division of Parole and Probation is within the purview of Nevada's Department of Public Safety. The Division has responsibilities in both law enforcement and casework; however, its primary responsibility is community safety. The Division conducts investigations of persons convicted of felony or gross misdemeanor offenses and makes sentencing recommendations to the District Court Judges.

Division officers supervise and monitor the activities of parolees and probationers and assist and encourage offenders to make acceptable adjustments within the community. The Division arranges educational programs and assists parolees and probationers in obtaining employment. Officers routinely identify offender needs and make referrals to State and local social and private service agencies.

Officers also monitor the behavior of offenders to deter future criminal activity and systematically test them for drug and alcohol abuse. On average, 70 percent of the offenders supervised by the Division exit their terms successfully, without being revoked back to prison or county jail.

At present, the Division collects about \$3.25 million in restitution annually from offenders and facilitates the disbursement to victims of crime. In addition, the Division also collects roughly \$3 million annually in supervision fees from offenders to defray the costs of supervision, thereby reducing the burden for the citizens of Nevada.

As of March 2010, the Division will operate 12 offices located throughout the State (the Division previously operated 15 offices prior to a revision in the use of certain facilities allowing for a combination of offices in Las Vegas). The central administration office is located in Carson City. The Division operates four primary district headquarters in Carson City, Elko, Las Vegas, and Reno. The two urban offices, Reno and Las Vegas, account for 80 percent of the Division's workload. The rural offices, while accounting for 20 percent of the workload, are responsible for coverage of 87,699 square miles, or 75 percent of the State's geography.

### *State Board of Parole Commissioners*

The State Board of Parole Commissioners serves the public interest by making reasonable and responsible decisions regarding the release of offenders to community supervision. The Board consists of seven members appointed to serve four-year terms by the Governor. The Chairman is the executive officer of the Board and administers its activities and services and is responsible for its management. Members of the Parole Board and case hearing representatives travel throughout the State and conduct hearings at the location the inmate is housed.

## 2009 SIGNIFICANT CRIMINAL JUSTICE LEGISLATION

In 2009, the Legislature addressed a wide variety of crimes including battery, driving under the influence, gangs, stalking, and technology crimes involving identity theft.

- The crime of battery was expanded to include strangulation, thereby making it a felony crime (Assembly Bill 164, Chapter 42, *Statutes of Nevada 2009*).
- The crime of driving under the influence (DUI) was revised so that revocation of a driver's license depends on the total number of violations within a seven-year period, regardless of how those violations are punished under the law (S.B. 100, Chapter 255, *Statutes of Nevada 2009*). Another DUI measure requires offenders to attend a live meeting of a panel of victims (A.B. 209, Chapter 100, *Statutes of Nevada 2009*).
- Gang activity was the subject of two bills. Senate Bill 142 (Chapter 112, *Statutes of Nevada 2009*) makes it a crime for an adult to engage in threatening or violent behavior for the purposes of gang recruitment. Assembly Bill 335 (Chapter 303, *Statutes of Nevada 2009*) expands the definition of "public nuisance" to include locations where gangs meet and plan their activities.
- The crime of stalking was expanded to include text messaging with a cell phone, and to include actions that cause the victim to fear for the safety of certain members of the victim's family and household (A.B. 309, Chapter 497, *Statutes of Nevada 2009*).
- Advances in technology that support identity theft were the subject of several measures. Senate Bill 227 (Chapter 355, *Statutes of Nevada 2009*) prohibits the transfer of unencrypted personal information and data storage devices without proper security of the data. Senate Bill 125 (Chapter 205, *Statutes of Nevada 2009*) similarly prohibits the use of radio frequency identification to capture or use someone's personal information to commit fraud, identity theft, or other illegal acts. Finally, A.B. 389 (Chapter 161, *Statutes of Nevada 2009*) prohibits businesses from printing any more than the last five digits of an account number on a transaction receipt.

Measures to address criminal procedure were also enacted in 2009, covering the subjects of competency, genetic marker testing, parole, residential confinement, and sentencing:

- With passage of A.B. 264 (Chapter 46, *Statutes of Nevada 2009*), only defendants charged with a category A felony or a violent category B felony may be committed to the Division of Mental Health and Developmental Services within the Department of Health and Human Services.
- Genetic marker testing was the subject of two measures. Assembly Bill 105 (Chapter 39, *Statutes of Nevada 2009*) streamlines the process by which biological specimens are taken from convicted felons by eliminating the need for a court order. Assembly Bill 179 (Chapter 283, *Statutes of Nevada 2009*) allows inmates to petition the court for a postconviction genetic marker analysis.



- Residential confinement for parolees and probationers who violate the conditions of their release was the subject of A.B. 259 (Chapter 447, *Statutes of Nevada 2009*). The bill provides for the granting and forfeiture of “good time” credits for these violations and allows offenders convicted of a category B felony to be assigned to residential confinement under certain conditions.
- Assembly Bill 117 (Chapter 148, *Statutes of Nevada 2009*) allows the State Board of Parole Commissioners to grant parole without the necessity of a Board meeting, if it anticipates granting the parole.
- Senate Bill 238 (Chapter 211, *Statutes of Nevada 2009*) allows the State Board of Pardons Commissioners to adopt a policy that will expedite the process of restoring the civil rights of certain persons.
- Senate Joint Resolution No. 1 (File No. 80, *Statutes of Nevada 2009*) seeks to amend the *Nevada Constitution* to replace the Pardons Board with a Clemency Board in order to meet an increased workload. The resolution must be approved again by the Legislature in 2011 before being submitted to the voters for final approval in 2012.

## FREQUENTLY ASKED QUESTIONS

**Q: What is the penalty for an offense that does not specify a penalty?**

**A:** If no penalty is specified, the offense is a misdemeanor.

**Q: For what crimes can a person be sentenced to death in Nevada?**

**A:** A person may only receive the death penalty for a conviction of first degree murder, only where one or more aggravating circumstances are found, and any mitigating circumstances do not outweigh the aggravating circumstance(s).

**Q: What is the difference between parole and probation?**

**A:** Parole is the term used to describe offenders that have been incarcerated in a prison facility and released prior to the court imposed expiration date. Parolees serve their time in the community and can be returned to prison for violating any of the **conditions of parole** imposed by the State Board of Parole Commissioners.

Probation is the term used to describe offenders that have been convicted of an offense but whose prison sentence is suspended. Probation is very similar to parole except that probationers have not served prison time on their suspended sentence and the sentencing judge maintains jurisdiction over the probationer.

## ADDITIONAL REFERENCES

- Nevada's Department of Corrections: <http://www.doc.nv.gov>
- Nevada's Division of Parole and Probation: <http://dps.nv.gov/npp/>
- State Board of Parole Commissioners: <http://www.parole.nv.gov>

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## GLOSSARY OF TERMS AND ABBREVIATIONS

**Crime**—An offense that is punishable by imprisonment, either in county jail or State prison.

**DA**—Generally refers to the local (county) Office of the District Attorney, which is responsible for prosecuting criminal offenses.

**Felony**—A crime that is punishable by imprisonment for 1 year or longer.

**Misdemeanor**—A crime that is punishable by imprisonment for less than 1 year.

**NDOC**—Nevada's Department of Corrections.

**P&P**—The Division of Parole and Probation, Nevada's Department of Public Safety.

**PD**—Generally refers to the local (county) Office of the Public Defender, which is responsible for defending indigent persons charged with criminal offenses.

**Truth-in-Sentencing**—Sentencing requirements that apply to offenses committed after July 1, 1995, under which the court must impose a bifurcated sentence consisting of a specified period of incarceration in prison followed by a specified period of extended supervision.