

Nevada's Primary Narcotics Statutes and Corresponding Sentencing Guidelines

| Offense | Statute | Category | Discretionary v. Mandatory Sentencing | Sentencing Range |
|--|----------------|-------------------------------------|--|----------------------------|
| Possession of Controlled Substance (not including Schedule V or Marijuana) | 453.336 | 1 st Offense = E | 1 st Offense = Mandatory Probation | Min. 1 to Max. 4 years |
| | | 2 nd Offense = E | 2 nd Offense = Mandatory Probation | Min. 1 to Max. 4 years |
| | | 3 rd or more Offense = D | 3 rd or more Offense = Discretionary | Min. 1 to Max. 4 years |
| Possession of Controlled Substance With Intent to Sale (Schedules I and II) | 453.337 | 1 st Offense = D | 1 st Offense = Discretionary | Min. 1 to Max. 4 years |
| | | 2 nd Offense = C | 2 nd Offense = Discretionary | Min. 1 to Max. 5 years |
| | | 3 rd or more Offense = B | 3 rd or more Offense = Discretionary | Min. 3 to Max. 15 years |
| Possession of Controlled Substance With Intent to Sale (Schedules III, IV and V) | 453.338 | 1 st Offense = D | 1 st Offense = Discretionary | Min. 1 to Max. 4 years |
| | | 2 nd Offense = D | 2 nd Offense = Discretionary | Min. 1 to Max. 4 years |
| | | 3 rd or more Offense = C | 3 rd or more Offense = Discretionary | Min. 1 to Max. 5 years |
| Sale/Transport of Controlled Substance (Schedules I and II) | 453.321 | 1 st Offense = B | 1 st Offense = Discretionary | Min. 1 to Max. 6 years |
| | | 2 nd Offense = B | 2 nd Offense = Mandatory Prison | Min. 2 to Max. 10 years |
| | | 3 rd or more Offense = B | 3 rd or more Offense = Mandatory Prison | Min. 3 to Max. 15 years |
| Sale/Transport of Controlled Substance (Schedules III, IV and V) | 453.321 | 1 st Offense = C | 1 st Offense = Discretionary | Min. 1 to Max. 5 years |
| | | 2 nd Offense = B | 2 nd Offense = Mandatory Prison | Min. 2 to Max. 10 years |
| | | 3 rd or more Offense = B | 3 rd or more Offense = Mandatory Prison | Min. 3 to Max. 15 years |
| Trafficking in Controlled Substances (Schedule I) | 453.3385 | 4-14 grams = B | Mandatory Prison | Min. 1 to Max. 6 years |
| | | 14-28 grams = B | Mandatory Prison | Min. 2 to Max. 15 years |
| | | 28 + grams = A | Mandatory Prison | Min. 10 to Max. 25 or Life |
| Trafficking in Controlled Substances (Schedule II) | 453.3395 | 28-200 grams = C | Mandatory Prison | Min. 1 to Max. 5 years |
| | | 200-400 grams = B | Mandatory Prison | Min. 2 to Max. 10 years |
| | | 400 + grams = A | Mandatory Prison | Min. 5 to Max. 15 or Life |
| Trafficking in Controlled Substances (Marijuana) | 453.339 | 100-2000 lbs. = C | Mandatory Prison | Min. 1 to Max. 5 years |
| | | 2000-10000 lbs =B | Mandatory Prison | Min. 2 to Max. 10 years |
| | | 10000 lbs + =A | Mandatory Prison | Min. 5 to Max. 15 or Life |

Advisory Commission on Admin. of Justice
 Exhibit E pg 1 of 8 Date: June 9, 2008
 Submitted by: Judge Herndon

Nevada Drug Offense Schedules

NRS 453.166 Schedule I tests. The Board shall place a substance in schedule I if it finds that the substance:

1. Has high potential for abuse; and
2. Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

(Added to NRS by 1971, 2005)

NRS 453.176 Schedule II tests. The Board shall place a substance in schedule II if it finds that:

1. The substance has high potential for abuse;
2. The substance has accepted medical use in treatment in the United States, or accepted medical use with severe restrictions; and
3. The abuse of the substance may lead to severe psychological or physical dependence.

(Added to NRS by 1971, 2006; A 1991, 1653)

NRS 453.186 Schedule III tests. The Board shall place a substance in schedule III if it finds that:

1. The substance has a potential for abuse less than the substances listed in schedules I and II;
2. The substance has currently accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(Added to NRS by 1971, 2008)

NRS 453.196 Schedule IV tests. The Board shall place a substance in schedule IV if it finds that:

1. The substance has a low potential for abuse relative to substances in schedule III;
2. The substance has currently accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule III.

(Added to NRS by 1971, 2008)

NRS 453.206 Schedule V tests. The Board shall place a substance in schedule V if it finds that:

1. The substance has a low potential for abuse relative to substances listed in schedule IV;
2. The substance has accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in schedule IV.

(Added to NRS by 1971, 2009; A 1991, 1653)

Nevada's Substantial Assistance Statute

NRS 453.3405 Trafficking in controlled substances: Suspended sentence limited; eligibility for parole; reduction or suspension of sentence of person assisting in identification, arrest or conviction.

1. Except as provided in subsection 2, the adjudication of guilt and imposition of sentence of a person found guilty of trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395 must not be suspended and the person is not eligible for parole until he has actually served the mandatory minimum term of imprisonment prescribed by the section under which he was convicted.

2. The judge, upon an appropriate motion, may reduce or suspend the sentence of any person convicted of violating any of the provisions of NRS 453.3385, 453.339 or 453.3395 if he finds that the convicted person rendered substantial assistance in the identification, arrest or conviction of any of his accomplices, accessories, coconspirators or principals or of any other person involved in trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395.

The arresting agency must be given an opportunity to be heard before the motion is granted.

Upon good cause shown, the motion may be heard in camera.

(Added to NRS by 1983, 288; A 1985, 159)

United State Sentencing Guidelines 5K1.1

Re: Substantial Assistance

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines.

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:

- (1)** the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
- (2)** the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;
- (3)** the nature and extent of the defendant's assistance;
- (4)** any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;
- (5)** the timeliness of the defendant's assistance.

Criminal Caseload Statistics for Clark County, Nevada

2007 Statistics

| | | | |
|---|---|--------|---|
| Total criminal cases filed in 8 th Judicial District Courts | - | 10,069 | |
| Total criminal cases filed in 8 th Judicial District Court, Dept. 3 | - | 517 | |
| Total # of 8 th Judicial District Court, Dept. 3, cases involving Trafficking in Controlled Substance as original charge in Criminal Complaint and/or Indictment | - | 47 | = 9.1 % of total cases |
| Total # of 8 th Judicial District Court, Dept. 3, cases involving conviction for Trafficking in Controlled Substance | - | 7 | = 1.4 % of total cases = 16.3 % of total TCS cases |

Regarding the seven 8th Judicial District Court, Dept. 3 cases,
resulting in convictions for Trafficking in Controlled
Substance:

-All 7 involved high level trafficking as one of original charges
-All 7 involved Schedule I substances
-All 7 involved guilty pleas
-6 involved convictions for low level trafficking and 1
involved conviction for mid level trafficking

.....The average range of sentence was Minimum 17 months and Maximum 58 months

Note:

8th Judicial District Court, Dept. 3, was used a representative sample of the twenty four (24) 8th Judicial District Courts.

Using the percentages generated by the Dept. 3 numbers would result in the following approximations in regard to the combined 8th Judicial District Courts:

| | | |
|--|---|--------|
| Total Criminal Cases Filed | = | 10,069 |
| 9.1 % involving Trafficking in Controlled Substance as original charge | = | 916 |
| 16.3 % of total trafficking cases filed resulting in trafficking convictions | = | 149 |

Criminal Caseload Statistics for Clark County, Nevada

First Quarter 2008 Statistics (Through March 2008)

| | | | |
|---|---|-------|---|
| Total criminal cases filed in 8 th Judicial District Courts | - | 2,610 | |
| Total criminal cases filed in 8 th Judicial District Court, Dept. 3 | - | 156 | |
| Total # of 8 th Judicial District Court, Dept. 3, cases involving Trafficking in Controlled Substance as original charge in Criminal Complaint and/or Indictment | - | 14 | = 9.0 % of total cases |
| Total # of 8 th Judicial District Court, Dept. 3, cases involving conviction for Trafficking in Controlled Substance | - | 2 | = 1.3 % of total cases = 14.3 % of total TCS cases |

Regarding the two 8th Judicial District Court, Dept. 3 cases,
resulting in convictions for Trafficking in Controlled
Substance:

-Both involved high level trafficking as one of original charges
-Both involved Schedule I substances
-Both involved guilty pleas
-Both involved convictions for low level trafficking

.....The average range of sentence was Minimum 12 months and Maximum 48 months

Note:

8th Judicial District Court, Dept. 3, was used as a representative sample of the twenty four (24) 8th Judicial District Courts.

Using the percentages generated by the Dept. 3 numbers would result in the following approximations in regard to the combined 8th Judicial District Courts:

| | |
|--|---------|
| Total Criminal Cases Filed | = 2,610 |
| 9.0 % involving Trafficking in Controlled Substance as original charge | = 234 |
| 14.3 % of total trafficking cases filed resulting in trafficking convictions | = 33 |

Criminal Caseload Statistics for Churchill County, Nevada

2007 Statistics

| | | | |
|---|---|------|---|
| Total criminal cases filed | - | 1448 | |
| Total # of cases involving Trafficking in Controlled Substance as original charge in Criminal Complaint and/or Indictment | - | 5 | = 0.3 % of total cases |
| Total # of cases involving conviction for Trafficking in Controlled Substance | - | 4 | = 0.3 % of total cases = 80.0 % of total TCS cases |

Regarding the five cases filed,

-One case involved high level trafficking as one of original charges
-Three cases involved mid level trafficking as highest of original charges
-One case involved low level trafficking as highest of original charges
-The cases with conviction appear to involve a mix of guilty pleas and jury verdicts
-All four cases involving convictions for trafficking, have a conviction for
mid level trafficking
-The average range of sentence was Minimum 32 months and Maximum 136 months

2008 Statistics through April, 2008

| | | | |
|---|---|-----|---|
| Total criminal cases filed | - | 443 | |
| Total # of cases involving Trafficking in Controlled Substance as original charge in Criminal Complaint and/or Indictment | - | 2 | = 0.4 % of total cases |
| Total # of cases involving conviction for Trafficking in Controlled Substance | - | 1 | = 0.2 % of total cases = 50.0 % of total TCS cases |

Regarding the two cases filed,

-Both involved low level trafficking as highest of original charges
-Both involved multiple charges
-The case with a conviction came by guilty plea to low level trafficking
-The case with a conviction is awaiting sentencing

Criminal Caseload Statistics for Carson City, Nevada

2007 Statistics

| | | | |
|---|---|----|---|
| Total criminal cases filed | - | | |
| Total # of cases involving Trafficking in Controlled Substance as original charge in Criminal Complaint and/or Indictment | - | 52 | = of total cases |
| Total # of cases involving conviction for Trafficking in Controlled Substance | - | 11 | = of total cases = 21.2 % of total TCS cases |

Regarding the cases filed,

-Approximately 2 involved high level trafficking as one of original charges
-Approximately 40 involved mid level trafficking as highest of original charges
-Approximately 10 involved low level trafficking as highest of original charges

2008 Statistics through current

| | | | |
|---|---|----|---|
| Total criminal cases filed | - | | |
| Total # of cases involving Trafficking in Controlled Substance as original charge in Criminal Complaint and/or Indictment | - | 14 | = of total cases |
| Total # of cases involving conviction for Trafficking in Controlled Substance | - | 2 | = of total cases = 14.3 % of total TCS cases |

Regarding the cases filed,

-Approximately 9 involved high level trafficking as one of original charges
-Approximately 2 involved mid level trafficking as highest of original charges
-Approximately 3 involved low level trafficking as highest of original charges