

January 2023

Comprehensive Report



SENTENCING POLICY

State of Nevada



Comprehensive Report

January 2023

INTRODUCTION

This report is the second comprehensive report summarizing the work and recommendations of the Nevada Sentencing Commission (Commission) and the Nevada Department of Sentencing Policy (NDSP).

History

The most recent iteration of the Commission was originally established in 2017 as an interim committee of the Legislature. The Commission was tasked with making data-driven recommendations regarding sentencing and corrections policies. The Commission studied other sentencing commissions and ultimately recommended that it become independent of the Legislature and be provided dedicated staff to assist in analyzing and overseeing criminal justice data. The Legislature adopted this recommendation and in 2019, established NDSP and moved the Commission to the Executive Branch by housing it in NDSP.

STATUTORY MANDATE

NRS 176.0134 requires the Commission to submit a comprehensive report by January 15 of each odd-numbered year to the:

- Office of the Governor
- Director of the Legislative Counsel Bureau for distribution to the Legislature
- Chief Justice of the Nevada Supreme Court

The report must include:

- Recommended changes pertaining to sentencing
- Findings
- Recommendations for proposed legislation
- Identification of certain outcomes resulting from the enactment of Assembly Bill No. 236 (AB 236) from the 2019 Legislative Session
- Identification of certain trends observed from the enactment of AB 236 (2019)
- Identification of gaps in criminal justice data and recommendations for filling such gaps

- Recommendations for improvements, changes, and budgetary adjustments
- Additional recommendations for future legislation and policy options to enhance public safety and control corrections costs

2019-2021 MEMBERS

Justice James Hardesty
Nevada Supreme Court, *Chair*

Chuck Callaway
Police Director, Las Vegas Metropolitan Police
Department, *Vice Chair*

Senator Nicole Cannizzaro

Senator Keith Pickard

Assemblywoman Rochelle Nguyen

John Arrascada
Washoe County Public Defender

Christine Jones Brady
Second Assistant Attorney General, Office of the
Attorney General

Elisa Cafferata
Director of Department of Employment, Training,
& Rehabilitation

Charles Daniels
Director, Nevada Department of Corrections

Christopher DeRicco
Chairman, Board of Parole Commissioners

Judge Scott Freeman
Second Judicial District Court

Christopher Hicks
Washoe County District Attorney

Darin Imlay
Clark County Public Defender

Dr. Jennifer Lanterman
Gubernatorial Appointee

Tom Lawson
Chief, Division of Parole and Probation

Keith Logan
Representative of the Sheriffs' and Chiefs'
Association

Russell Marsh
Representative of the State Bar of Nevada

John McCormick
Assistant Court Administrator, Administrative
Office of the Courts

Kimberly Mull
Victims' Rights Advocate

Dr. Elizabeth Neighbors
Division of Public and Behavioral Health

Jon Ponder
Representative, Offender Reentry

Judge Michael Villani
Eighth Judicial District Court

Holly Welborn
Policy Director, ACLU

NOTE: Members served from August 1, 2019, through July 31, 2021.

2021-2023 MEMBERS

Justice Lidia S. Stiglich
Nevada Supreme Court, *Chair*

Judge Scott Freeman
Second Judicial District Court

Christine Jones Brady
Office of the Attorney General, *Vice Chair*

William Gittere
Director, Nevada Department of Corrections

Senator Nicole Cannizzaro

Athar Haseebullah
Executive Director, ACLU of Nevada

Senator Pete Goicoechea

Christopher Hicks
Washoe County District Attorney

Assemblyman David Orentlicher

Jim Hoffman
Representative of the State Bar of Nevada

Assemblyman Tom Roberts

John Arrascada
Washoe County Public Defender

Tierra D. Jones
Eighth Judicial District Court

Chief Michelle Bays
Representative of the Sheriffs' and Chiefs' Association

Tom Lawson (RESIGNED)
Chief, Division of Parole and Probation

Dr. Shera Bradley
Division of Public and Behavioral Health

Dr. Jennifer Lanterman
Gubernatorial Appointee

Elisa Cafferata
Director of Department of Employment, Training, & Rehabilitation

Natasha Koch (RESIGNED)
Chief, Division of Parole and Probation

Chuck Callaway
Police Director, Las Vegas Metropolitan Police Department

John McCormick
Assistant Court Administrator, Administrative Office of the Courts

Charles Daniels (RESIGNED)
Director, Nevada Department of Corrections

Kimberly Mull
Victims' Rights Advocate

Christopher DeRicco
Chairman, Board of Parole Commissioners

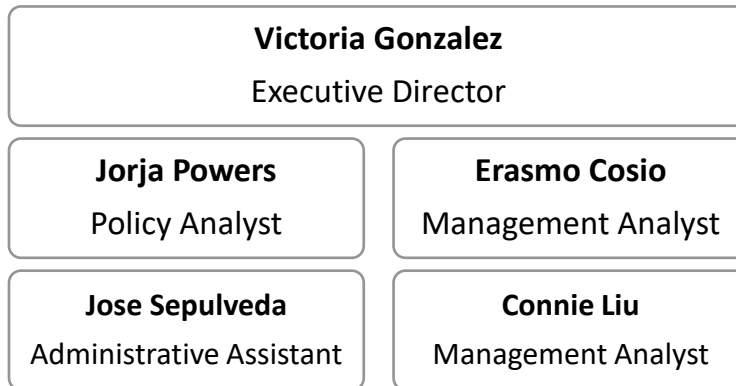
Julia Murray
Clark County Public Defender

James Dzurenda
Director, Nevada Department of Corrections

Jon Ponder
Offender Reentry

Note: Members will serve from August 1, 2021, through July 31, 2023

NDSP STAFF



Mission Statement

Our mission is to promote an equitable and reliable criminal justice system by providing reliable criminal justice data, practical fiscal analysis, and comprehensive policy resources to lawmakers, stakeholders, and the public to ensure Nevada’s sentencing and corrections policies and the Nevada Criminal Justice System as a whole are effective, data-driven, and resource sensitive.

COMMISSION MEETINGS

In 2021, the Commission met 4 times on the following dates:

- February 19, 2021
- May 21, 2021
- September 3, 2021
- November 9, 2021

In 2022, the Commission met 6 times on the following dates:

- February 24, 2022
- April 20, 2022
- May 9, 2022
- August 24, 2022
- November 4, 2022
- December 13, 2022

During its meetings, the Commission heard regular updates from NDSP staff on its efforts to collect data and also heard a variety of presentations related to analyzing and studying sentencing and corrections policies in this state.

The presentations included, without limitation:

- Regular updates from NDSP on its efforts to collect data including the publication of the first ever data dashboard of historical and recent prison population data
- An evaluation of the COVID-19 pandemic on Nevada’s criminal justice system as conducted and presented by the Crime and Justice Institute
- Explanation of how sentence credits are projected and applied by the Nevada Department of Corrections
- Updates on the implementation of AB 236 (2019) as presented by NDSP staff and the Crime and Justice Institute
- A multi-state comparison of prison populations and correctional costs
- Development of proposed legislation to improve implementation of certain AB 236 (2019) policies related to technical violations of supervision
- Establishment of and updates from the Nevada Local Justice Reinvestment Coordinating Council
- Regular analysis of the costs avoided due to the enactment of AB 236 (2019) and the approval of statutorily required reports

CRIMINAL JUSTICE DATA ADVANCES

Data from the Nevada Department of Corrections

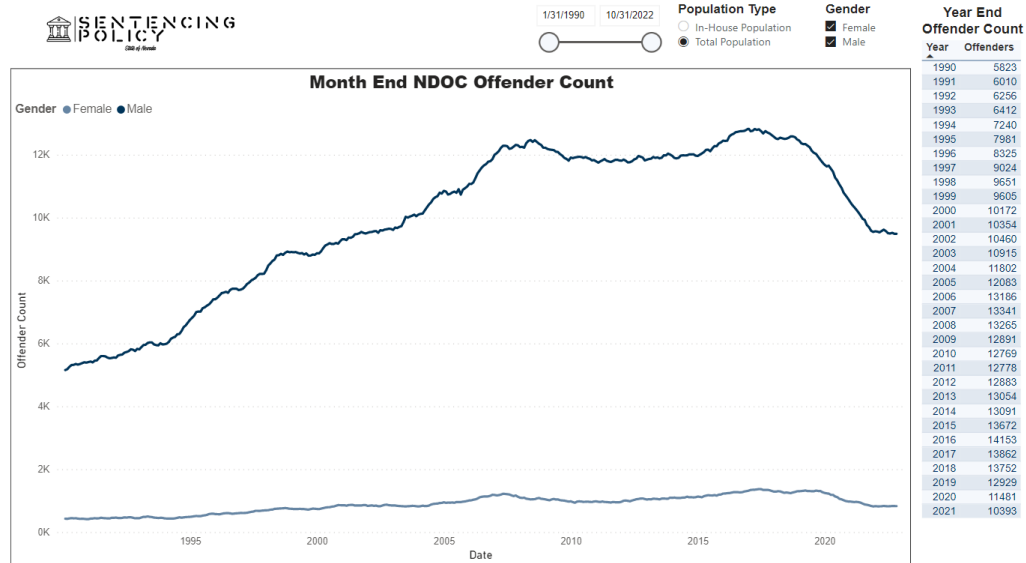
In the last two years, the Commission and NDSP have made several advances in the collection of criminal justice data. In partnership with the Nevada Department of Corrections (NDOC), NDSP identified and developed key data elements to analyze the prison population. These data elements are now reported from NDOC to NDSP on a monthly basis. The regular reporting of this data and the variety of data elements reported allows NDSP to conduct extensive analysis of the prison population.

Data from Nevada Division of Parole and Probation

NDSP worked with the Nevada Division of Parole and Probation (NPP) to determine data availability and sharing capabilities. These efforts culminated in the development of a data set that can be reported on a monthly basis. The first data set was received in November 2022. NPP will also report other aggregated data elements on a monthly basis.

Prison Population Dashboard

Other aggregated data provided by NDOC supports the first ever data interactive dashboard of Nevada prison population data (available on the NDSP website). Several pages of the dashboard are updated on a monthly basis, while others are updated annually.



Data Dispatch

In August 2022, NDSP published its first Data Dispatch. The Data Dispatch is a monthly fact sheet that provides the most recent prison population data and any discoveries about recent trends. The Dispatches are available on the website.

NDSP Data Dispatch
AUGUST 2022

This monthly fact sheet provides findings from the most recent data submitted to the Nevada Department of Sentencing Policy (NDSP) from the Nevada Department of Corrections (NDOC). The data submitted to NDSP is aggregated and analysis is conducted by NDSP staff. Visit <http://sentencing.nv.gov> and click on "The Hub" to access the "Trends Dashboard" for more prison population data.

Prison Population Snapshot			Total Population by Male and Female		
	In-House	Total	Male	Female	
April 30, 2022	10,120	10,454	6620	834	
May 31, 2022	10,034	10,369	6672	826	
June 30, 2022	10,000	10,327	6506	821	
July 31, 2022	10,002	10,321	6466	825	

Admissions & Releases Snapshot

See "Trends Dashboard" for data analysis back to 2015 and details for each month.

AUGUST DISCOVERIES

- Admissions and releases were almost equal in July 2022
 - ADMISSIONS: 397
 - RELEASES: 401
- Total population continues downward trend

NDSP Data Dispatch
November 2022

This monthly fact sheet provides findings from the most recent data submitted to the Nevada Department of Sentencing Policy (NDSP) from the Nevada Department of Corrections (NDOC). The data submitted to NDSP is aggregated and analysis is conducted by NDSP staff. Visit <http://sentencing.nv.gov> and click on "The Hub" to access the "Trends Dashboard" for more prison population data.

Prison Population Snapshot			Total Population by Male and Female		
	In-House	Total	Male	Female	
July 31, 2022	10,002	10,321	6,466	825	
August 31, 2022	10,025	10,348	6,518	831	
September 30, 2022	9,995	10,310	6,487	820	
October 31, 2022	9,980	10,315	6,487	828	

Comparison of Admissions and Releases

November Discoveries

- The prison population is below the projected population (according to projections used during the 2021 legislatively approved phase)
 - Projected in-house population: 11,255
 - Projected total population: 11,584

Justice Counts

Justice Counts is a nationwide initiative that aims to equip local and state criminal justice leaders with the tools and technical assistance needed for data-driven decision making. It is supported by the Bureau of Justice Assistance and the Council of State Governments (CSG). NDSP submitted a letter to CSG on behalf of itself and the Commission to join the program and become a Founding State. Becoming a Founding State would provide an opportunity for technical assistance to onboard criminal justice agencies to the data infrastructure.

At the August 24, 2022, Commission meeting, the Justice Counts team presented in depth information about the program and NDSP explained how Justice Counts would be another tool to support the statutory mandate to collect data from all criminal justice agencies. The Commission voted by a majority to pursue becoming a Justice Counts Founding State.

Then, in November, the Joint Interim Standing Committee on Judiciary issued a letter of support for Justice Counts. The letter also includes an invitation to criminal justice leaders to participate in and support the effort.

As of the writing of this report, the Nevada Department of Corrections, Nevada Division of Parole and Probation, Washoe County Sheriff, and Washoe County Public Defender completed the opt-in form to participate in Justice Counts. NDSP and the Justice Counts team will conduct an orientation and several technical assistance meetings to onboard each agency and provide the technical support they need to submit their data.

NDSP will continue to work with technical providers to implement Justice Counts in Nevada and then provide ongoing oversight for the program to ensure that Justice Counts works for our state in a Nevada-focused way.

AB 236 (2019) OUTCOMES

The Commission is statutorily required to track and assess various outcomes resulting from the enactment of AB 236 (2019). Because Justice Reinvestment policies led to the enactment of AB 236 (2019), the Commission and NDSP referred to the goals of Justice Reinvestment to track and assess the outcomes resulting from the enactment of AB 236 (2019).

The goals of Justice Reinvestment are to:

1. Strengthen responses to behavioral needs of offenders
2. Focus prison resources on serious and violent offenders
3. Improve efficiency and effectiveness of community supervision
4. Minimize barriers to successful reentry
5. Ensure sustainability of reforms

The Commission will use data to track and evaluate the progress of these goals. The most reliable and comprehensive data currently available to the Commission is prison population data. NDSP recommended the Commission evaluate the second goal, focusing prison resources on serious and violent offenders. As the Commission and NDSP expand data collection sources and capabilities, they will evaluate the other goals.

Are Prison Resources Focused on Serious and Violent Offenders?

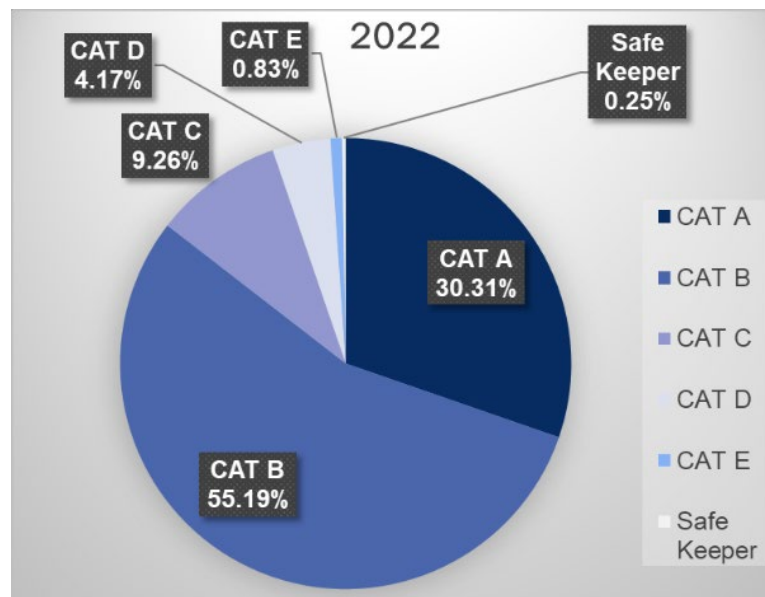
The Commission and NDSP analyzed the prison population to evaluate if the offenders being housed in Nevada prisons are serious and violent. The data presented at the November 4, 2022, Commission meeting represents this analysis. Part of the analysis included a comparison of the total prison population as of December 31, 2017, to the total prison population as of September 30, 2022.

(Note: Due to the time constraints to prepare and submit this report by January 15, 2023, it was not possible include the December 31, 2022, data. That analysis will be provided in a future publication.)

As a starting point to measure the trends among serious and violent offenders NDSP included all felony category A offenses and all sex and violent offenses (as grouped by NDOC) among all felony categories. Applying this scope of serious and violent, trends among felony categories, offense groups, and criminal history were analyzed.

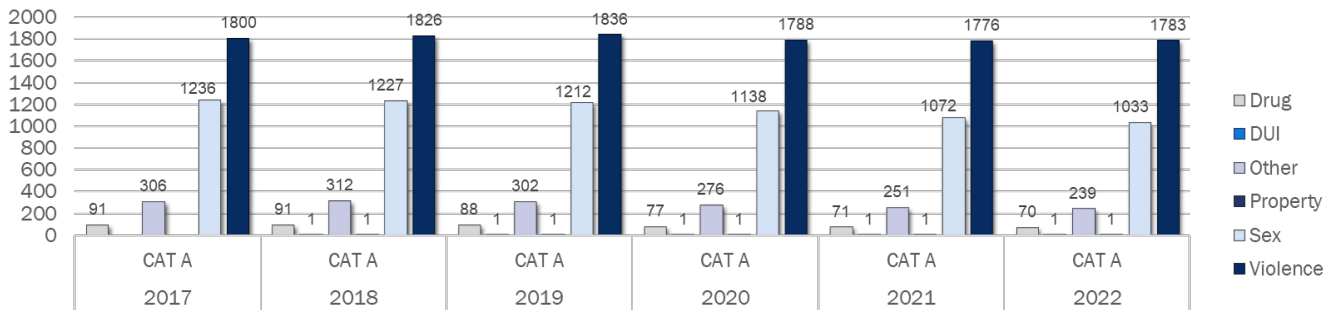
The Majority of the Prison Population is Category A or B

Based on the most serious offense, analysis of the prison population by felony category found that about 85% of the prison population are either category A or category B. Specifically, about 30% of the prison population is category A and about 55% percent are category B felons.

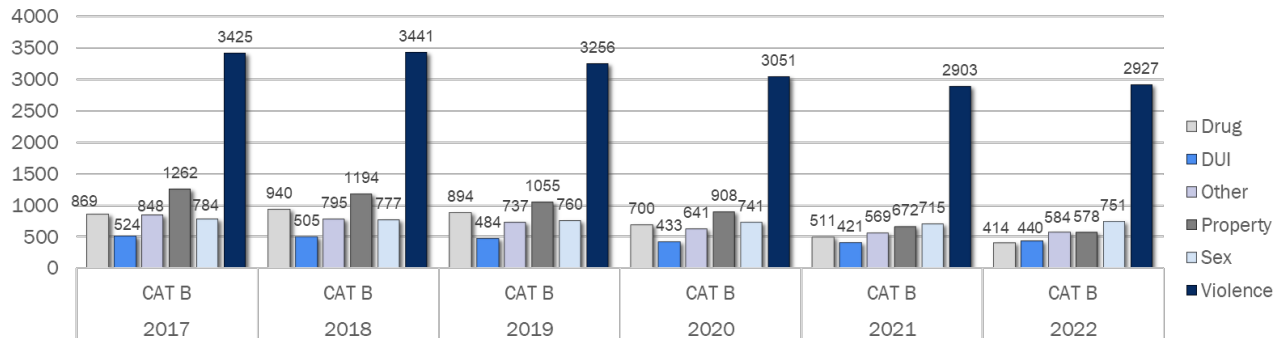


The Highest Occurring Offense Group Among Category A and B is Violence

The analysis also included a breakdown of felony category by offense group. If category A and B are the most common felonies, then what is the occurrence of offense groups among those categories? Analysis of category A offenders found that the highest occurring offense groups are sex and violence. This has been the trend since 2017.



Among category B offenders, the highest occurring and most common offense group among category B is violence. From 2017 to 2020, the second highest occurring offense among category B felonies was property. But in 2021 and 2022, the sex offense group became the second highest occurring. It is also worth noting that the total number of those category B felonies in the drug offense group saw a decrease. And by 2022, all the offense groups combined were still less than the total number of those in the violent offense group.



Most of the New Commitments with Zero Priors are Serious and Violent

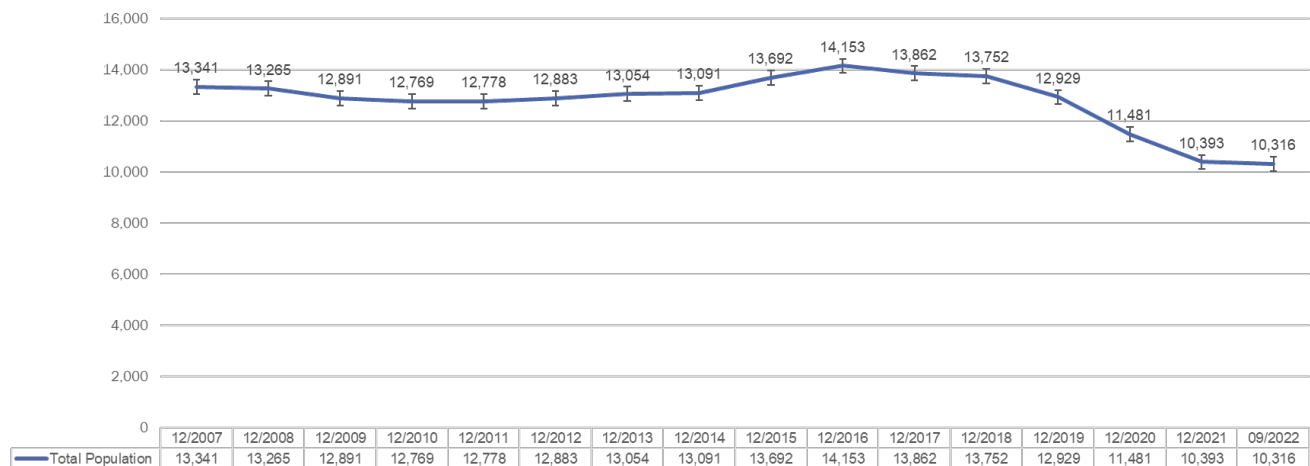
The analysis of the prison population also included an analysis of the criminal history of new commitments. For this analysis, criminal history included any occurrence of prior jail incarcerations, probations, non-violent misdemeanor convictions, violent misdemeanor convictions, prison incarcerations, felonies, and other Nevada bookings. NDSP found that 5.31% of the prison population are new commitments who have no priors, but 75% of those are category A or B felons in the sex and violence offense groups. This means that most of the persons housed in NDOC have a criminal history that is serious and violent.

NOTE: NDSP is still refining the process for analyzing criminal history.

Lowest Prison Population Since June 2001

The prison population trends over time were also analyzed. The prison population is the lowest it has been since June 2001. The prison population has been trending down since 2017 when releases began to outpace admissions.

NDSP found that the enactment of AB 236 and the effects from the COVID-19 pandemic enhanced the trend in a decreasing prison population that began in 2017.



Majority of Prison Population and Prison Resources Focused on Serious and Violent Offenders

Based on the scope of the analysis and the data findings above, NDSP found the majority of the low-trending prison population is serious and violent. This means the resources being spent on state corrections are focused on the most serious and violent offenders.

RECOMMENDATIONS

The Commission and NDSP developed a recommendation for legislation and budgetary adjustments.

Recommendation to Improve Implementation of AB 236 (2019)

At the May 9, 2022, Commission meeting NDSP presented data and analysis regarding the impact of temporary revocations on parolees. The average length of stay in NDOC for a first temporary revocation of 30 days is 69 days. This means that a parolee is spending more than twice the amount of time in NDOC than was intended. The longer length of stay is due to the statutory requirement which provides that a parolee facing a revocation must be returned to NDOC to await a revocation hearing with the Parole Board. In that amount of time, a parolee could lose their job, housing, and other supports that would help set them up for success for re-entry.

With the assistance of other criminal justice stakeholders, NDSP presented a recommendation to improve the likelihood of re-entry success and empower the Division of Parole and Probation with more tools to implement swift, certain, and proportional sanctions. NDSP recommended the Commission approve a bill draft request (BDR) that would revise the applicable provisions to remove the temporary revocation of 30 days and authorize the Division of Parole and Probation (NPP) to use jail confinement or electronic monitoring as part of their graduated sanctions. The Commission, by a majority, approved this recommendation.

The recommendations for the BDR also revised the definition of a technical violation, the membership of the Commission, and the duties of the executive director to enhance criminal justice data collection and analysis.

As introduced, the recommendation for the BDR resulted in Assembly Bill No. 32 (2023). At the December 13, 2022, meeting, the Commission voted to hold a meeting in January 2023 to review the bill and develop amendments to be presented by staff at the bill hearing.

Recommendation for Upfront Investment on Reinvestment

The Nevada Local Justice Reinvestment Coordinating Council (Coordinating Council) was established in 2019 through the enactment of AB 236 (2019). The Coordinating Council is required to administer grants to local governments and nonprofits to fund treatment and programs that will reduce recidivism. The grants are to be funded by the reinvestment of costs avoided due to the enactment of AB 236 (2019). While some costs avoided have been projected, the Commission approved a recommendation to fund a request for an appropriation to the Coordinating Council grants as an upfront investment on reinvestment. Funding these grants will help the Coordinating Council get to work on fulfilling its statutory mandate to support local governments and nonprofits in reducing recidivism.

UPCOMING: STUDY RE-ENTRY AND RECIDIVISM

For the upcoming biennium, the Commission and NDSP will embark on a study of re-entry and recidivism in Nevada. The Commission will hear presentations about programs and treatment currently available that support re-entry and reduce recidivism, research programs and treatment that could be implemented, evaluate the data available to analyze re-entry outcomes, evaluate data available to analyze recidivism, and determine whether there should be a statewide definition of recidivism. The findings and discussions will be published in four reports and a final report will be submitted in advance of the 2025 Legislative Session with recommendations for legislation and policies that will support re-entry and reduce recidivism.