

Simplifying the Maze

A Fresh Look at Nevada's Court System



The Nevada Supreme Court
Judicial Assessment Commission

1999-2000

MISSION

The Commission shall assess the urban courts of Nevada and make findings and recommendations concerning these court systems with a goal of providing fair and expedient justice for all, now and in the future.

The judicial system should process its cases in a timely, appropriate and efficient manner and should be perceived by the community it serves to be accessible and sensitive to the needs of the people.

Simplifying the Maze

Report of the

JUDICIAL ASSESSMENT COMMISSION

of the

Nevada Supreme Court

Chief Justice Robert E. Rose, Chairman

October 2000

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Points of view expressed herein are those of the Judicial Assessment Commission and do not necessarily represent the official positions or policies of the grantors.

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Preface

In 1993, the Nevada Supreme Court initiated the **Judicial Assessment Commission** – dubbed *The Rose Commission* for its sponsor, then-Chief Justice Bob Rose – and gave it authority to take a broad look at Nevada’s justice system and laws. The assignment was simple: make recommendations for innovative and needed changes to “simplify the maze” of our urban courts without regard for politics or other special interests.

Four task forces were established by the Commission: *Access to and Quality of Justice, Court Administration, Special Court Structures and Criminal Justice*.

Resulting recommendations led to the passage of new laws by the Legislature and new rules by the Nevada Supreme Court, enabling the court system at every level to work better for the people. The recommendations enacted included:

- Truth in sentencing legislation
- Establishment by Supreme Court Rule of Strong Chief Judge systems in Clark and Washoe Counties
- Funding for construction of an expanded Clark County jail
- Authorization and funding of new Family Court judges in Clark County
- Expansion of Drug Court programs
- Co-location of the Las Vegas Municipal Courts and Justice Courts in the Justice Center currently under construction
- Making the Municipal Court in Las Vegas a “court of record”
- Statewide collection of judicial workload statistics
- Creating a Division of Planning and Analysis at the Administrative Office of the Courts, Supreme Court of Nevada

Bolstered by that success, Justice Rose – when he again became Chief Justice in 1999 – reconvened the **Judicial Assessment Commission** and asked its members to take another look at a justice system that had gone through a series of changes in operating procedures and personalities during the previous five years.

This report describes the recommendations resulting from the 1999-2000 *Rose Commission’s* fresh look at our justice system.

Introduction

The 1999-2000 **Judicial Assessment Commission** reviewed and fine-tuned many of its prior recommendations, reaffirming its position on sometimes politically sensitive issues:

- The appointment rather than election of new judges
- Consolidation of Municipal and Justice Courts
- Re-categorizing minor traffic offenses and ``neighborhood dispute'' misdemeanors from crimes to civil infractions.

The *Rose Commission* also renewed its 1994 call to **reduce penalties for possession and use of small quantities of marijuana**. Such crimes are now felonies and the recommendation is they be reduced to misdemeanors or gross misdemeanors. This would reduce jail populations because violators would receive citations rather than being arrested. Although a controversial concept, the passage of such a law already has received support in newspaper editorials.

Perhaps the two Commission recommendations that will have the greatest impact on the future of the judicial system already have been implemented in response to the 1994 Commission report. They involve simple accountability through the **collection of uniform statistics** and the **establishment of a Division of Planning and Analysis at the Administrative Office of the Courts** to collect and analyze the data.

Commission members had noted in 1994 that the National Center for State Courts publishes periodic reports comparing judicial caseload statistics of the states and Nevada traditionally had the least comprehensive data. That was due in part to the lack of a standardized statistical model, resource problems at some courts in Nevada that hampered the gathering of the information and limited staffing at the Administrative Office of the Courts to process the statistics.

The Legislature, in response to a proposal from the Nevada Supreme Court, expanded the Administrative Office of the Courts and created a Division of Planning and Analysis, which set the statistical standards. In 1999, the Supreme Court issued an order establishing the **Uniform System for Judicial Records**, requiring every court in the state to collect caseload statistics and provide them to the Administrative Office of the Courts.

The courts must report statistics about the number of cases filed, number and type of dispositions, events occurring in each case and the status of pending cases.

Full implementation, however, will be on a staggered schedule because not all courts are immediately able to produce all statistics. Yet enough caseload statistics have been compiled for the publication of the Nevada judicial system's first Annual Report in December 2000.

Additional statistics will be added in future years, finally bringing Nevada in line with other states.

It was the Commission's intent that the Division of Planning and Analysis:

- Coordinate the collection of comparable statewide caseload statistics
- Create standardized forms for the collection of court-related information
- Implement and update the weighted caseload system
- Provide caseload forecasts and projections
- Assist courts with budget proposals, facility planning and determining staff needs
- Conduct periodic case management studies, including the time it takes to resolve cases and age of pending caseloads
- Provide court personnel with case management training
- Implement a uniform, statewide computer system for the trial courts
- Work with other justice system-related agencies to enhance the sharing of reliable information and facilitate overall communications
- Establish court security standards
- Seek additional funding through grants
- Provide staff support to the Judicial Council and serve at its pleasure, should the Judicial Council not be provided its own independent staff.

One 1994 Rose Commission Executive Recommendation that has not yet been implemented advocated the development of a “**weighted caseload system**” that would evaluate workload statistics to determine when new judges are needed and whether existing judges are being fully utilized. The Commission was informed in 1994 that implementation would not be feasible until all the necessary statistics are gathered under the progressive schedule set in the order establishing the Uniform System for Judicial Records, and the Division of Planning and Analysis were established at the Administrative Office of the Courts.

The Executive Recommendation was reaffirmed in 2000, with the understanding that the court system is on track to conduct the weighted caseload studies in the foreseeable future.

Each task force recommendation proposed in 2000 was voted upon by all Commission members.

It is important to note that the recommendations can by no means be entirely comprehensive. The recommendations, however, do advocate improvements in the judicial system to move it closer to the ideal. In this context, the Commission feels it has contributed significantly toward simplifying the maze of Nevada's courts.

CHAPTER 1:

Supreme Court of Nevada

JUDICIAL ASSESSMENT COMMISSION

1999-2000

SUMMARY of RECOMMENDATIONS

Access to and Quality of Justice Task Force

- Change the way judges are selected in Nevada to let a commission make the initial appointment and let voters decide at elections whether to retain the judges. The so-called **Nevada Plan** would require the appointed judges to run in one open election that would allow any qualified candidate to challenge them. Thereafter, the winner would run for retention on his or her record. The recommendation calls for a formal commission – much like the one presently in place to deal with mid-term vacancies – that could assess a candidate’s integrity, professional abilities, health and finances. Ethnic and gender diversity would be urged.
- Conduct a statewide **Judicial Performance Evaluation** coordinated by a formal commission appointed by the courts, the State Bar of Nevada, the governor and legislative leaders. Questionnaires would be sent to lawyers, peace officers, probation officers, court personnel, social workers and jurors seeking input on such issues as diligence, legal abilities, impartiality, judicial temperament, skills and their opinions whether the judges should be retained. The results would be provided to the public. A similar evaluation process is in place in Clark and Washoe Counties. In Clark County the effort is orchestrated by the Clark County Bar Association and the Las Vegas Review-Journal, but only attorneys are asked for their opinions.
- Promote an expanded recognition of the right of citizens to represent themselves in all cases – including civil cases – in all trial courts. There should be accommodations made for those **Pro Se litigants** to help them better represent themselves. The development of standardized forms and the dispensing of “legal information” by court staff should be

included – as opposed to “legal advice” – and the collection of data concerning *pro se* litigants to permit an annual review of the issue by the Nevada Supreme Court.

- Prompt lawyers to perform 20 hours of ***Pro Bono* work** annually in cases involving those too poor to hire lawyers or provide \$500 to a fund that would go toward obtaining legal representation for the indigent.
- Reaffirm the statutory split of court **Administrative Assessment (AA) fees** to ensure the court system receives its full share of 51 percent. The commission recognized that the division of AA fees during recent years has sent approximately 55 percent of the fees to the state general fund and only about 45 percent to the Supreme Court’s Administrative Office of the Courts to fund judicial improvements.

Court Administration Task Force

- Establish a committee to develop guidelines and standards to permit the **electronic filing of court documents**.
- Declassify all court documents and declare them to be **public documents**.
- Develop statewide courthouse **security standards** and determine a funding mechanism to implement them.
- Establish a special committee to study the **Nevada jury system**, including compensation, methods for improvement and the quality of jury instructions.

Special Court Structure Task Force

- Legislative monitoring of caseloads and workloads of all Nevada trial courts to ensure the **needs of litigants** and their families are met. Caseload information will be facilitated by the recent Supreme Court rule requiring the uniform collection of judicial statistics.
- Separate the **Clerk of the Court** function from that of the County Clerk and place the former under the court administrators and Chief Judges. Under current law, the elected County Clerks are designated as the Clerks of the Court to process and maintain control over court records and files. The current law is the subject of a court challenge on “separation of powers” grounds.

Criminal Justice Task Force

- Establish a committee or council to study how **criminal defendants** are processed and identify ways of improving the system.

- Develop **jail population management** plans in each jurisdiction to ensure jail beds are consistently and properly utilized.
- Revise the bail laws to allow the **release of minor offenders** by jail personnel, providing the defendants met court-approved criteria.
- Implement **pre-trial services** programs to screen some offenders and determine if they can be released from jail without bail on their own recognizance. The plan would require the defendants be monitored in the communities.
- Ensure that steps are taken to preclude **jail overcrowding** in Clark County and promote new jail construction whenever it becomes clear all alternatives to incarceration have been exhausted.
- Urge the Executive Branch to re-establish and fund a comprehensive mental health program to deal with the **mentally ill defendants** who flood the court system. As part of that, the state criminal codes should allow judges to divert non-violent offenders with severe mental illnesses away from incarceration and into appropriate treatment facilities. Judges should also have the authority to defer entries of judgement pending completion of treatment programs and to dismiss charges and clear the records of individuals who successfully complete treatment programs.
- Provide **training** for judges, parole officers and court personnel about mental illnesses and legal issues affecting people with these illnesses.
- Alter **juvenile laws** to create a “blended” system for serious or chronic offenders, rather than a strict adherence to the current system that requires underage offenders either be treated as juveniles or certified for as adults. Under the recommendation, 17-year-olds who already have spent time in juvenile institutions could be prosecuted as adults but referred to the juvenile system – at the discretion of a judge – for rehabilitation services. Successful completion of a rehabilitation program could result in the charges being dismissed.
- Revise **bail laws** to allow for the courts to establish a system of personal recognizance and unsecured appearance bonds and prevent the detaining of a person in jail solely because of an inability to meet a financial condition for bail.
- Establish a procedure to utilize existing law and permit courts to directly take cash or property to procure the **release of prisoners**.
- Enact laws allowing a “**deposit bail**” system that would let defendants deposit refundable bail, plus an administrative fee directly with the courts.

CHAPTER 2:

Commission Members

Membership of the **Judicial Assessment Commission** in 1999-2000, with few exceptions, was the same as in 1994.

Most members have connections to or experience in the legal community and, as such, are familiar with current laws and processes. Other members, however, were chosen from outside the justice system for their skills, business knowledge or community involvement. They brought a fresh perspective to a judicial structure steeped in formality and traditionally slow to change.

As in 1994, the Commission in 2000 was divided into four task forces – *Access to and Quality of Justice, Court Administration, Special Court Structures and Criminal Justice*

Supreme Court of Nevada

1999-2000

JUDICIAL ASSESSMENT COMMISSION

CHIEF JUSTICE ROBERT E. ROSE
Commission Chair

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Medical Director, Health Insight
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Anna Peterson

District Court Administrator (retired)
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CHAPTER 3:

Supreme Court of Nevada
1999-2000

Detailed
Recommendations

ACCESS TO and QUALITY OF JUSTICE **TASK FORCE**

Dr. Bill Berliner
Chairperson

Judicial Selection – Original Recommendation

1. Adopt a judicial selection and retention system, “The Nevada Plan,” as follows:
 - a) When a vacancy occurs before the expiration of any term of office in the supreme court or among the district judges, the governor shall appoint a justice or judge from among three nominees selected for such individual vacancy by the commission on judicial selection.
 - b) At the first general election after two full years on the bench, the justice or judge will face an election through the election process.
 - c) If the justice or judge were elected, then the judge would maintain his/her office through the retention procedure.
 - d) If the opponent were elected, then that newly elected judge would maintain his/her office through the retention procedure.
 - e) In the retention procedure, the judge would run on the question: “Shall Judge X be retained in office?” If the majority votes “yes,” then the judge remains on the bench. If a majority votes “no,” then a vacancy is created to which a new appointment is made.

2. Expand the permanent commission on judicial selection as follows:
 - a) From three to four members of the state bar, appointed by its board of governors;
 - b) From three to four persons, not members of the legal profession, appointed by the governor;One additional member, not a member of the legal profession, appointed by the speaker of the assembly;
 - c) One additional member, not a member of the legal profession, appointed by the speaker of the senate;
 - d) One additional member, not a member of the legal profession, appointed by the minority leader of the assembly; and

- e) One additional member, not a member of the legal profession, appointed by the minority leader of the senate.
3. Adopt judicial nomination criteria and include, but not be limited to, a candidate's:
- a) Integrity: a candidate shall be of undisputed integrity, and the candidate's past personal and professional conduct shall demonstrate consistent adherence to high ethical standards.
 - b) Legal Knowledge and Ability: a candidate shall possess a high degree of knowledge of established legal principles and procedures and have a high degree of ability to interpret and apply them to specific factual situations.
 - c) Professional Experience: a candidate shall be a licensed, experienced lawyer.
 - d) Judicial Temperament: a candidate shall possess a judicial temperament, which includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, patience, tact and understanding.
 - e) Diligence: a candidate shall be diligent and punctual.
 - f) Health: a candidate shall be in good physical and mental health.
 - g) Financial Responsibility: a candidate shall be financially responsible.
 - h) Public Service: consideration shall be given to a candidate's previous public service activities.
 - i) Diversity: consideration shall be given to a candidate's ethnic, racial and gender background.

Judicial Performance Evaluation – Original Recommendation

1. Adopt a judicial performance evaluation program containing the following elements:
- a) A program goal to provide the voters with fair and comprehensive information on justices and judges standing for retention election, and to provide feedback to justices and judges to improve their skills.
 - b) An administrative structure that includes a performance evaluation program run by a commission on judicial performance. The commission evaluates all justices and judges standing for retention. The commission consists of the following members:
 - Two members appointed by the Chief Justice of the Supreme Court
 - Two members of the State Bar of Nevada appointed by its board of governors
 - Two persons, not members of the legal profession, appointed by the governor
 - One member, not a member of the legal profession, appointed by the speaker of the assembly
 - One member, not a member of the legal profession, appointed by the majority leader of the senate
 - One member, not a member of the legal profession, appointed by the minority leader of the assembly
 - One member, not a member of the legal profession, appointed; by the minority leader of the senate

The members shall serve staggered six-year terms, and be limited to two terms. The appointing authorities shall provide a membership with a diversity of backgrounds and experiences, and represent the state's geographic population distribution.

- c) Defined types of criteria to evaluate judicial performance, including:

- Legal ability
 - Impartiality
 - Judicial temperament
 - Diligence
 - Special skills
 - Overall evaluation and retention recommendation
- d) Defined sources of information
- Questionnaires from attorneys, peace officers, probation officers, court personnel, social workers and jurors. Comments will be included as well as ratings. Attorneys will evaluate justices and judges on the full range of performance criteria while all others will not rate legal abilities.
 - Evaluations of Supreme Court justices will be limited to attorneys and trial attorneys
 - Only those with direct experience with the evaluated justices and judges will be permitted to evaluate them
 - Anonymity will be maintained
- e) Sharing the information with judges
- Summaries of evaluations will be provided to justices and judges by the commission on judicial performance 30 days before the last date on which they may declare their intention to stand for election.
- f) Providing the evaluation information to the public
- Recommendations and summaries of the survey will be provided in widely circulated newspapers statewide, in addition to other means, by the commission when justices and judges stand for election
 - Explanation of the evaluation process will be provided by the commission for public distribution in all judicial districts

Pro Se Issues – New Recommendations

1. Courts of the State of Nevada should:
 - a) Recognize the right of citizens to represent themselves *pro se* in the civil trial courts of the state.
 - b) Better enable *pro se* litigants to represent themselves by making every accommodation when practical and feasible, including the development of standardized multi-lingual court forms of the most used forms in various courts.
 - c) Maintain, if financially feasible, such court records as necessary to identify and track *pro se* litigant cases in order to identify resources to assist *pro se* litigants to represent themselves in the court process.

2. The State of Nevada should:
 - a) Promote classes and clinics designed and operated under the supervision of an attorney licensed in the State of Nevada to teach *pro se* litigants basic information about court procedures and substantive areas of law.

3. The State Bar of Nevada should:

- a) Define and recommend to the Supreme Court “legal information” vs. “legal advice” so that the Courts of the State of Nevada can authorize court clerks and other trained and supervised court personnel to provide legal information to better enable *pro se* litigants to represent themselves in the court process.
4. The Nevada Supreme Court should:
 - a) Provide for an annual review of the issues relating to *pro se* representation in the courts of the state and take whatever actions it deems appropriate to further the policy of increasing the access to justice by *pro se* litigants in the courts of the state using the statistics requested in recommendation #1-c.

Pro Bono Issues – New Recommendation

1. Provide an option on forms of the State Bar of Nevada and/or the local bar associations for attorneys to increase dues and earmark those funds to go to legal services for those identified as indigent.
2. Establish a Supreme Court rule to make 20 hours-per-year of *pro bono* work or \$500-per-year paid into a fund mandatory for attorneys in Nevada.
3. Encourage newly licensed attorneys to be included on a list of lawyers available to the performance of *pro bono* work, similar to the system established for “track” attorneys in criminal courts.
4. Encourage law students to perform *pro bono* work to receive credit as part of their education.

Interpreters Program – New Recommendation

1. Endorse legislation to reaffirm that court administrative assessment (AA) fees are split 51% - 49%, with the judiciary again receiving 51%. (In the past few years, with an excess in the \$500,000 range, the split has been as much as 55% to the state General Fund and 45% to the Judicial System)
 2. Increase filing fees and criminal administrative assessments in all courts for use by the Administrative Office of the Courts to fund a centralized interpreters program.
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COURT ADMINISTRATION **TASK FORCE**

Anna Peterson
Chairperson

Electronic Filing – New Recommendation

1. Establish a committee to develop electronic filing guidelines and review standards like those developed by the National Consortium for State Court Automation Standards as follows:
 - a) Appointment by the Supreme Court of a committee under the auspices of the Administrative Office of the Courts' Planning and Analysis Division to review and consider guidelines for implementation of electronic filing.
 - b) Give full consideration to the standards developed by the National Consortium for State Court Automation Standards and other efforts to develop electronic filing standards. (The Consortium was established by the Joint Technology Committee of the Conference of State Court Administrators (COSCA) and the National Association for Court Management (NACM) to "define functional standards for trial court case management systems". Electronic filing procedures are included within those standards.)

Public Documents – New Recommendation

1. Classify all court documents as public documents.
 - a) Establish a special committee by Supreme Court appointment to review this issue and consider guidelines which classify all court documents as public.

Statewide Court Security – Original Recommendation

1. Develop statewide court security standards and funding mechanisms.

- a) Establish a special committee by Supreme Court appointment to review this issue and finalize guidelines which formalize the number, qualifications and training of court security personnel and equipment requirements.
 - Consider new and existing courthouse construction, equipment and personnel in determining the feasibility of implementing the guidelines
 - Ensure that guidelines establish emergency contingency plans for each court that are documented, followed and tested on a regular basis
 - Consider each court's individual facility design, number and type of personnel and the quality of training required to implement the guidelines
 - Consider conducting scenarios, or unannounced drills, in a number of courts to determine the best methods in responding to emergencies or incidents
 - Focus not only on response to events, but court staffs' awareness of court security and prevention of crises, as well

- b) Development by the committee of one or a number of funding mechanisms for court security. A number of alternatives exist including amendments to existing legislation (see NRS 176.059(5)(b) and NRS 176.0611), drafting new legislation (California, Illinois and Oregon have established court security legislation) or grants.

Jury Compensation – New Recommendation

1. Establish special committees to study the Nevada jury system and jury instructions.
 - a) Implement at the Supreme Court level (retired) Chief Justice Thomas Steffen's petition and establish committees as follows:
 1. Appoint one committee to perform a comprehensive study of Nevada's jury system and methods for improving it.
 2. Appoint one committee to study, and suggest improvements to, and where necessary, replacements for standard jury instructions currently in use in civil and criminal proceedings.
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SPECIAL COURT STRUCTURES **TASK FORCE**

Larry Hyde, Esq.
Chairperson

Additional Judges and Judicial Officers for the Trial Courts – Original Recommendation

1. Monitor at the legislative level the caseloads and workloads of all of Nevada's trial courts to ensure that the needs of the litigants and their families are met.

Information Systems for all Trial Courts – New Recommendation

1. Institute a new system utilizing advanced technology to apprise courts of all relevant information concerning other cases involving the same family.
 - a) Provide Family Division district judges with relevant information obtained from computer systems of relevant court systems, including Justice Courts and Municipal Courts. It is essential, for example, to know what is happening in the criminal courts concerning criminal cases involving domestic violence, which is also the basis for a civil protective order.
 - b) Amend existing law that prohibits judges, during sentencings at one level, from obtaining pre-sentence reports prepared for the same defendant for use at another level.

Clerk of the Court/County Clerk – Original Recommendation

1. Initiate legislation to separate the Clerk of the Court function from that of the County Clerk and assign the Clerk of the Court to the Court Administrator under the direct supervision of the Chief Judge.
 - a) Distinctly define and separate the duties of the County Clerk and Court Clerk.

- b) Retain the County Clerk as an elected official with responsibility for the non-court duties of that office, such as marriage license issuance, clerk to the Board of County Commissioners, etc.
- c) Place the Court Clerk duties under the direct supervision of the Chief Judge and assign them to be performed by the Court Administrator, if there is one, or by a designated Clerk of the Court.
- d) Place all staff performing Court Clerk duties involving filing, maintaining records, calendaring, etc., for the court system under the Chief Judge or designated administrator within the court system.
- e) Designate that at all levels of the court system in the state, the Chief Judge or judicial officer should supervise the court's clerical and support staff. Provide that smaller counties or multi-county districts have the discretion to structure support services appropriate to the needs of that court while assuring that judicial officers have ultimate authority over court support staff.

Intermediate Appellate Court – Original Recommendation (Modified)

- 1. Continue the constitutional amendment process to establish an intermediate appellate court.
 - a) The Nevada State Bar Association should take leadership of a public education campaign that would include other groups, such as business associations and the American Judicature Society to promote the passage of the constitutional amendment.

Who's in Charge – Judicial Council – Original Recommendation (Modified)

- 1. Expand the role, make-up and authority of the Judicial Council as part of an overall plan by the Nevada Supreme Court to administer a more united court system.
 - a) A majority of the Judicial Council should be members of the judiciary, serving fixed but staggered terms, so the doctrine of Separation of Powers is preserved and the judiciary has responsibility to govern itself.
 - b) The Judicial Council should have certain administrative and management authority over the courts of the state, through rule-making authority and the administration of allocated funds.
 - c) The Judicial Council should be responsible for planning activities regarding the functioning of the court system.
 - d) The Judicial Council should explore and develop a program of temporary assignment for judges to deal with docket overflow or other caseload problems that may arise in a unified court system.

Who's in Charge – Chief Judge – Original Recommendation (Modified)

- 1. Each Court should adopt the Strong Chief Judge system.

Court Unification – Justice and Municipal Courts – Original Recommendation (Modified)

1. Continue the collaborative efforts of Nevada’s courts targeting enhanced efficiencies and resource sharing.
 - a) The state should ultimately assume total financial responsibility for the judiciary with the long-term goal of unification.

Alternate Dispute Resolution (ADR) – Original Recommendation (Modified)

1. Authorize expansion of ADR programs and services to additional parts of the state, allowing for funding through an increase in court filing fees, the ability to charge the involved parties, foundation grants, etc.
2. Encourage the regular assignment of judges who possess mediation talent to serve as settlement judges.
3. Seek expanded enabling legislation to allow promotion of ADR.
4. Obtain a contingency fund to which courts and agencies could apply for recovery of costs of ADR.
5. Encourage a continuing dialogue between the legal community, the judicial system, the Legislature and the public regarding the nature and merits of ADR, what disputes need to go to the traditional adversary process and what types of cases are better resolved through ADR.

Disparity in Sentencing – New Recommendation

1. Continue the Mandatory Sentencing Review Commission.
 2. Expand the Commission’s scope and membership to address disparity in sentencing as well as other pertinent sentencing issues.
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CRIMINAL JUSTICE **TASK FORCE**

Justice of the Peace Nancy Oesterle
Chairperson

Confidentiality of Juvenile Records – Original Recommendation (Modified)

1. Amend Nevada Revised Statute (NRS) 62.360 to allow records which have not been sealed to be inspected by a municipal or justice court for imposition of sentence on a person convicted of a misdemeanor offence.

Sanctions for Serious Juvenile Crimes –New Recommendation

1. Adopt a “blended” juvenile/adult justice system for serious or chronic offenders. Juveniles meeting the following criteria should be initially excluded from the juvenile justice system and should be prosecuted as adults:
 - a) 17 years or older and
 - b) Previously committed to a juvenile training facility for an offense which would have been a felony if committed by an adult, and
 - c) Currently charged with an offense, which would have been classified as a felony if committed by an adult.
 - d) Charged as an adult by the District Attorney.
2. Establish a formal process that would include:
 - a) The juvenile should have an opportunity, prior to entry of judgement and imposition of sentence, to request that the criminal proceeding be stayed and that he be remanded to the juvenile court for rehabilitative services.
 - b) The criminal judge would make the threshold determination of whether to grant the stay.

- c) If the stay were granted then the juvenile judge would determine whether to accept jurisdiction and, if accepted, would proceed to make an interim disposition.
 - d) Juvenile court jurisdiction would continue until the person's 21st birthday.
3. Juvenile court jurisdiction would terminate upon any of the occurrence of any of the following conditions:
- a) The juvenile court judge conducts a hearing at any time after the offender reaches the age of 20 years and 6 months.
 - b) The juvenile is convicted or adjudicated for a new offense, which would have been classified as a criminal offense if committed by an adult.
 - c) The juvenile court judge conducts a hearing at any time and determines that the offender has not complied with the terms of his juvenile court wardship.
4. The Order terminating juvenile court jurisdiction would include findings regarding the juvenile's compliance with the interim disposition orders and a recommendation to the criminal court to either enter a judgement of conviction and proceed to sentencing or set aside the finding of guilt and dismiss the charges.

Funding for Drug Court – New Recommendation

1. Legislative Action:
- a) Impose a \$10 fee on all drug-related cases as part of the sentence and collected by the courts. The fees should be collected for the next 25 years. A bill amending NRS Chapter 176 should be drafted and submitted through the Administrative Office of the Courts (AOC).
 - b) Add a line item to the annual State budget for Drug Court funding. This should be proposed by the Governor's office and administered by the AOC so that money would be allocated to Drug Courts every legislative session.
 - c) Include Drug Court as a component of any expanded early release program. If the State Prison early release pilot program is successful, then future legislative sessions should consider allocating State Prison funds towards adding a Drug Court component to the early release program.
2. Grant Applications:
- a) Obtain federal grant monies and identify other opportunities for funding through a cooperative effort of the AOC and State agencies, such as the State Drug Commission and the Bureau of Alcohol and Drug Abuse.
 - b) Pursue local, state, and federal grant funds.
 - c) Study all drug prevention and education money coming into the prisons and school system to permit the group to determine what works and what does not work.
 - d) Conduct a review of all recipients of block grant money. The same agencies have been getting the same amounts of block grant money for lengthy periods of time. They now feel that they are entitled to the same allocation of money and rely upon it for their agency's administration expenses. Drug Court should prepare grant requests for this money.

3. Administrative Office of the Courts should:
 - a) Supervise expansion of Drug Courts to Juvenile Courts.
 - b) Supervise expansion of Drug Courts to Rural Courts.
 - c) Coordinate overall operation of Drug Courts within the State.
 - d) Work with State and Local agencies to identify all monies coming into the various jurisdictions related to drug education and treatment to determine if they can be diverted to support Drug Courts.

4. General Recommendations:
 - a) Require all Drug Courts to provide regular annual statistics to the AOC. These statistics should address the number of defendants and recidivism rates to support funding requests at all levels.

5. Forfeiture Revenue:
 - a) Encourage collaborative efforts to share resources for further funding of Drug Courts by allocating a percentage of criminal forfeiture revenue statewide.

Possession of a Controlled Substance – Marijuana – Original Recommendation (Modified)

1. The Commission recommends to the Nevada Legislature to defelonize the simple possession of small amounts of marijuana. NRS 453.336 should be amended by inserting the new paragraph “3” to read:

“3. Unless a greater penalty is provided in NRS 212.160, a person who is found to be in possession, actual or constructive, of marijuana is guilty of a criminal offense, and shall be punished as follows:

 - a) *If the person is found to be in possession, actual or constructive, of 1 ounce or less of marijuana, that person shall be issued a citation as provided in NRS 171.1773, in conformance with NRS 171.122. Thereafter, upon conviction, the offense is punishable as a misdemeanor.*
 - b) *If the person is found to be in possession, actual or constructive, of more than 1 ounce, but less than 4 ounces of marijuana, the offense is punishable as a gross misdemeanor.*
 - c) *If the person is found to be in possession, actual or constructive, of 4 ounces or more of marijuana, the offense is a felony punishable by imprisonment in the state prison for not less than one year nor more than six years, and the offender may be further punished by a fine of not more than \$5,000.”*

Under the Influence of a Controlled Substance – Original Recommendation (Modified)

1. Amend NRS 453.411, which declares a person who uses or is under the influence of a controlled substance to be guilty of a felony. NRS 453.411 (3) should be amended to read:

“3. Unless a greater penalty is provided in NRS 212.160, any person who violates this section shall be punished as a misdemeanor, in addition to which, the court may refer the person to a treatment program as certified by the State of Nevada Bureau of Alcohol and Drug Abuse in accordance with the provisions of NRS 453.580.”

Pre-Trial Services – Original Recommendation

1. Include Pre-Trial Services as a component of the criminal justice process, from charge to disposition, in all criminal courts in Washoe County and Clark County. Information collected during pre-trial monitoring should be considered at sentencing in all cases.

Pre-Trial Services Program – Original Recommendations*

1. Establish a Criminal Justice Steering Committee or Criminal Justice Council in each urban jurisdiction with its first task to oversee the completion of a comprehensive data collection analysis of the criminal justice system. This study would be designed to determine how defendants are processed and to identify any existing deficiencies in the system.
2. Develop a comprehensive Jail Population Management Plan, upon analysis of the data collected, to ensure the existing jail beds are properly managed. The plan should include the implementation of an array of pre-trial and post-trial intermediate punishment sanctions.
3. Revise Nevada Bail Statutes as follows:
 - a) Current status allows the sheriff to have release authority for pre-trial misdemeanants. The courts should delegate release authority to a Pre-Trial Service program operating under court approved criteria.
 - b) Implement a comprehensive Pre-Trial Services program. The program should be staffed adequately to screen each individual booked into the jail. Qualified misdemeanants should be released on *own recognizance* and verified reports presented at the court appearance. The program should monitor, track and, if necessary, supervise persons released from custody. Supervision staff should carry a caseload of no more than 50 clients.

**Dr. Paul Martin, Director, Clark County Detention Center, asked the Commission to reaffirm the prior recommendations for Pre-Trial Services Programs (see above) especially pertaining to release authority. In addition, funding should be a priority (see recommendation 4 in Pretrial Release and Detention Policies).*

Housing of Mentally Ill in Jails – Original Recommendation

1. Pass a state law requiring the State Mental Health System to take custody of all persons arrested for committing a crime, other than a felony crime of violence, if:

- a) Prior to committing the offense, they were adjudged mentally ill.
- b) They were recently released from a mental hospital or institution.
- c) They are adjudged mentally ill by a certified mental health professional after arrest.

Pre-Trial Diversion Alternatives (for the mentally ill) – New

Recommendations

1. Encourage the Executive Branch to reestablish an appropriate and comprehensive mental health program and adequately fund it.
2. Create authority in state criminal codes for judges to divert non-violent offenders with severe mental illnesses away from incarceration into appropriate treatment. This includes authority for judges to defer entries of judgement pending completion of treatment programs and to dismiss charges and expunge the records of individuals who successfully complete treatment programs.
3. Train probate, civil, and criminal court judges and personnel about severe mental illnesses and legal issues affecting people with these illnesses.
4. Provide specialized training to parole officers about severe mental illnesses, the needs of people with these illnesses on probation, and treatment resources and benefits available to these individuals.

Alternatives to Incarceration – Original Recommendation

1. Permit the Department of Parole and Probation and local jurisdictions to administer transitional housing, day-treatment centers, assessment centers, and expand the use of electronic monitoring, intensive supervision, and counseling services.

Pretrial Release and Detention – New Recommendations

1. Amend NRS 178.484, et seq., to conform to the Bail Reform Act, 18 U.S.C. §3141, et seq.
Specifically, by statutory amendment or court rule, Nevada should adopt the process for personal recognizance, unsecured appearance bond and release conditions set forth in 18 U.S.C. §3141.
2. Amend NRS 178.484, et seq., to provide that the court may not detain a person solely because of the person's inability to meet a financial condition.
3. Utilization by the courts of the authority conferred by NRS 178.502 (1) to accept cash or property in an amount equal to or less than the face amount of a bond.

4. Increase funding at the state and local levels for the pretrial services agency in Clark County and provide funding sufficient to sustain the present level of pretrial service in Washoe County.
5. Establish a “deposit bail” system through legislative action like those presently adopted in the states of Oregon, Kentucky and Illinois, whereby a defendant may deposit directly with the court refundable bail including a modest administrative fee to cover the cost of administration of the “deposit bail” program.
 - a) During implementation of the “deposit bail” program, all released persons should be supervised by the court services agency, whether or not a bail bond has been posted.

Re-categorize Minor Traffic/Misdemeanor Offenses - Original Recommendation (Modified)

1. Re-categorize minor traffic offenses (four point violations or less) to civil infractions.
 2. Re-categorize “neighborhood dispute” offenses, including all dog-related offenses, including, but not limited to, dog license, rabies vaccination, tagging, and noise annoyance violations.
 3. Adopt a Civil Model for adjudicating these offenses without changing current collection and distribution of court assessments. In the Civil Model, jurisdiction over the adjudication of the offense is maintained by the court, with decision making and sanctioning of the cited offenders usually performed by non-judicial officers using civil case processing techniques. All civil remedies are used in adjudication and enforcement. Court assessments should be part of the civil model.
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CHAPTER 4:

EXECUTIVE RECOMMENDATION

Karen Kavanau
Director, Administrative Office of the Courts

Weighted Caseload Study – Original Recommendation*

1. Continue taking steps to develop a weighted caseload system to improve court administration and determine judgeship needs and utilization.
 - a) Develop weights for major case types within each court.

**While this was not implemented since the original recommendation, it is understood by the Commission that such implementation was not feasible until both the appropriate statistics were gathered (which is in progress under the Uniform System for Judicial Records order from the Nevada Supreme Court) and the Division of Planning and Analysis were established at the Administrative Office of the Courts (which has been accomplished). It should be noted that at the Nevada District Judges Association meeting in Elko on May 12, 1994, the judges agreed they would be willing to participate in a weighted caseload study in Nevada when one is conducted. Therefore it is appropriate to re-recommend the original proposal, with the understanding that the court system is on track to conduct the studies in the foreseeable future.*

CHAPTER 5:

A Message from the Administrative Office of the Courts



SUPREME COURT OF NEVADA
ADMINISTRATIVE OFFICE OF THE COURTS
SUPREME COURT BUILDING
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KAREN KAVANAU
*Director
and
State Court
Administrator*

Since the Rose Commission issued its first report in 1994, many of its recommendations have been enacted into law or put into practice. The implementation of these recommendations has helped accomplish the goal of making our courts more competent, efficient and user-friendly.

Two primary concerns noted by the Executive Director of the Commission six years ago were that records be kept on the operations of all courts in Nevada and that everyone have a better idea of the type and complexity of caseloads handled by each court. The first concern was embodied in two resolutions – one calling for the creation of a Planning and Analysis Division within the AOC and the other that uniform, reliable statistics be kept by all Nevada courts. Both have been achieved.

The 1995 Legislature funded the Division of Planning and Analysis and it has been the leader in creating the Nevada Uniform System for Judicial Records (USJR). The USJR statistical requirements were approved by the Supreme Court in 1999 and Nevada trial courts were ordered to begin reporting their statistics July 1999. One hundred percent of the courts in the state reported their statistics during the first full year of the requirements. The USJR statistical requirements will be expanded in the coming years making our information about Nevada courts more comprehensive.

All that remains to do to create an accurate picture of the caseloads faced by each judge is a weighted caseload study. In 1994, the Executive Director of the Rose Commission recommended that a weighted caseload study be conducted in Nevada and I repeat that recommendation. This last piece of statistical information would provide individual courts and court administrators with all the tools necessary to analyze and effectively manage the caseloads they face each year.

A series of recommendations in 1994 urged the courts to better use technology to communicate with each other and with law enforcement. The AOC has been the moving force in getting most Nevada courts computerized; and with such technology, each court will be able to communicate with other courts and access the internet. The AOC has also encouraged courts and municipalities to jointly develop and use similar systems. This cooperation permits the pooling of money and gives each user more “bang for the buck.”

Two new projects reflect this effort. A four-county criminal justice integration project is underway and includes all courts and law enforcement agencies in the counties of Carson City, Storey, Churchill and Lyon. This multi-county justice integration effort is called the “Griffin Project,” after Judge Michael Griffin who has been the moving force for the multi-county project. The second project is in southern Nevada where the AOC has successfully encouraged the municipal courts of Las Vegas, North Las Vegas and Henderson to join the Clark County justice courts to seek a common case management system. When completed, this project will provide a common case management tool for these courts with public access to information for most of the misdemeanor cases in the state of Nevada.

I also recommend that we continue to develop a communication infrastructure by pooling the available money and having courts and law enforcement cooperate in implementing systems that allow for seamless sharing of information across state and local justice agencies.

At the Nevada Supreme Court, the case management system became fully operational last year, but it must be revised to accommodate the expanded Court that now sits in panels. This system should be analyzed and modified to meet the needs of a new Court structure. Such modifications should include the ability to permit electronic filing of documents with the Supreme Court, which would reduce paperwork and make filings easier for attorneys throughout the state.

The court system in Nevada has made tremendous strides in the past few years. It is more efficient, competent and user-friendly. We must continue to build on our success and strive to make our courts a model in the quest for the dual goals of justice and efficiency.



Karen Kavanau
Director and State Court Administrator