

115TH CONGRESS
2D SESSION

S. 573

AN ACT

To establish the National Criminal Justice Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Criminal Jus-
3 tice Commission Act of 2018”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) it is in the interest of the Nation to estab-
7 lish a commission to undertake a comprehensive re-
8 view of the criminal justice system;

9 (2) there has not been a comprehensive study
10 since the President’s Commission on Law Enforce-
11 ment and Administration of Justice was established
12 in 1965;

13 (3) that commission, in a span of 18 months,
14 produced a comprehensive report entitled “The
15 Challenge of Crime in a Free Society,” which con-
16 tained 200 specific recommendations on all aspects
17 of the criminal justice system involving Federal,
18 State, Tribal, and local governments, civic organiza-
19 tions, religious institutions, business groups, and in-
20 dividual citizens; and

21 (4) developments over the intervening 50 years
22 require once again that Federal, State, Tribal, and
23 local governments, law enforcement agencies, includ-
24 ing rank and file officers, civil rights organizations,
25 community-based organization leaders, civic organi-
26 zations, religious institutions, business groups, and

1 individual citizens come together to review evidence
2 and consider how to improve the criminal justice
3 system.

4 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

5 There is established a commission to be known as the
6 “National Criminal Justice Commission” (referred to in
7 this Act as the “Commission”).

8 **SEC. 4. PURPOSE OF THE COMMISSION.**

9 The Commission shall—

10 (1) undertake a comprehensive review of the
11 criminal justice system;

12 (2) make recommendations for Federal criminal
13 justice reform to the President and Congress; and

14 (3) disseminate findings and supplemental guid-
15 ance to the Federal Government, as well as to State,
16 local, and Tribal governments.

17 **SEC. 5. REVIEW, RECOMMENDATIONS, AND REPORT.**

18 (a) GENERAL REVIEW.—The Commission shall un-
19 dertake a comprehensive review of all areas of the criminal
20 justice system, including Federal, State, local, and Tribal
21 governments’ criminal justice costs, practices, and policies.

22 (b) RECOMMENDATIONS.—

23 (1) IN GENERAL.—Not later than 18 months
24 after the first meeting of the Commission, the Com-
25 mission shall submit to the President and Congress

1 recommendations for changes in Federal oversight,
2 policies, practices, and laws designed to prevent,
3 deter, and reduce crime and violence, reduce recidi-
4 vism, improve cost-effectiveness, and ensure the in-
5 terests of justice at every step of the criminal justice
6 system.

7 (2) UNANIMOUS CONSENT REQUIRED.—A rec-
8 ommendation of the Commission may be adopted
9 and submitted under paragraph (1) if the rec-
10 ommendation is approved by a unanimous vote of
11 the Commissioners at a meeting where a quorum is
12 present pursuant to section 6(d).

13 (3) REQUIREMENT.—The recommendations
14 submitted under this subsection shall be made avail-
15 able to the public.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than 18 months
18 after the first meeting of the Commission, the Com-
19 mission shall also disseminate to the Federal Gov-
20 ernment, as well as to State, local, and Tribal gov-
21 ernments, a report that details the findings and sup-
22 plemental guidance of the Commission regarding the
23 criminal justice system at all levels of government.

24 (2) MAJORITY VOTE REQUIRED.—Commission
25 findings and supplemental guidance may be adopted

1 and included in the report required under paragraph
2 (1) if the findings or guidance is approved by a ma-
3 jority vote of the Commissioners at a meeting where
4 a quorum is present pursuant to section 6(d), except
5 that any Commissioners dissenting from particular
6 finding or supplemental guidance shall have the
7 right to state the reason for their dissent in writing
8 and such dissent shall be included in the report of
9 the Commission.

10 (3) REQUIREMENT.—The report submitted
11 under this subsection shall be made available to the
12 public.

13 (d) PRIOR COMMISSIONS.—The Commission shall
14 take into consideration the work of prior relevant commis-
15 sions in conducting its review.

16 (e) STATE AND LOCAL GOVERNMENT.—In issuing its
17 recommendations and report under this section, the Com-
18 mission shall not infringe on the legitimate rights of the
19 States to determine their own criminal laws or the enforce-
20 ment of such laws.

21 (f) PUBLIC HEARINGS.—The Commission shall con-
22 duct public hearings in various locations around the
23 United States.

24 (g) CONSULTATION WITH GOVERNMENT AND NON-
25 GOVERNMENT REPRESENTATIVES.—

1 (1) IN GENERAL.—The Commission shall—

2 (A) closely consult with Federal, State,
3 local, and Tribal government and nongovern-
4 mental leaders, including State, local, and Trib-
5 al law enforcement officials, including rank and
6 file officers, legislators, public health officials,
7 judges, court administrators, prosecutors, de-
8 fense counsel, victims' rights organizations, pro-
9 bation and parole officials, criminal justice
10 planners, criminologists, civil rights and lib-
11 erties organizations, community-based organiza-
12 tion leaders, formerly incarcerated individuals,
13 professional organizations, and corrections offi-
14 cials; and

15 (B) include in the final report required
16 under subsection (c) summaries of the input
17 and recommendations of these leaders.

18 (2) UNITED STATES SENTENCING COMMIS-
19 SION.—To the extent the review and recommenda-
20 tions required by this section relate to sentencing
21 policies and practices for the Federal criminal jus-
22 tice system, the Commission shall conduct such re-
23 view in consultation with the United States Sen-
24 tencing Commission.

1 (h) SENSE OF CONGRESS, GOAL OF UNANIMITY.—

2 It is the sense of the Congress that, given the national
3 importance of the matters before the Commission, the
4 Commission should work toward unanimously supported
5 findings and supplemental guidance, and that unani-
6 mously supported findings and supplemental guidance
7 should take precedence over those findings and supple-
8 mental guidance that are not unanimously supported.

9 **SEC. 6. MEMBERSHIP.**

10 (a) IN GENERAL.—The Commission shall be com-
11 posed of 14 members, as follows:

12 (1) The President shall appoint the Attorney
13 General to serve as chairman and a member of the
14 Commission.

15 (2) Six members shall be appointed by the At-
16 torney General in consultation with—

17 (A) the leadership of the Senate and
18 House of Representatives of the same political
19 party as the President; and

20 (B) the leadership of the Committee on the
21 Judiciary of the House of Representatives and
22 the Committee on the Judiciary of the Senate
23 of the same political party as the President.

24 (3) Seven members shall be appointed by the
25 senior members of the leadership of the Senate and

the House of Representatives of the opposite party of the President in consultation with the leadership of the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate of the opposite political party of the President.

(b) MEMBERSHIP.—

(1) IN GENERAL.—Members will be selected based upon knowledge or experience in such relevant areas as—

(A) law enforcement;

(B) criminal justice;

(C) national security;

(D) prison and jail administration;

(E) prisoner reentry;

(F) public health, including physical and sexual victimization, drug addiction and mental health;

(G) victims' rights;

(H) civil rights;

(I) civil liberties;

(J) court administration;

(K) social services; and

(L) State, local, and Tribal government.

(2) LAW ENFORCEMENT REPRESENTATION.—

1 (A) MEMBERS APPOINTED BY ATTORNEY
2 GENERAL.—Of the 6 members appointed by the
3 Attorney General under subsection (a)(2)—

4 (i) not fewer than 2 shall be rep-
5 resentatives from Federal, State, or local
6 law enforcement agencies; and

7 (ii) not fewer than 1 shall be a rep-
8 resentative from Tribal law enforcement
9 agencies.

10 (B) OTHER MEMBERS.—Of the 7 members
11 appointed under subsection (a)(3)—

12 (i) not fewer than 2 shall be rep-
13 resentatives of Federal, State, or local law
14 enforcement agencies; and

15 (ii) not fewer than 1 shall be a rep-
16 resentative from Tribal law enforcement
17 agencies.

18 (3) DISQUALIFICATION.—An individual shall
19 not be appointed as a member of the Commission if
20 such individual possesses any personal financial in-
21 terest in the discharge of any of the duties of the
22 Commission.

23 (4) TERMS.—Members shall be appointed for
24 the life of the Commission.

25 (c) APPOINTMENT; FIRST MEETING.—

1 (1) APPOINTMENT.—Members of the Commis-
2 sion shall be appointed not later than 45 days after
3 the date of the enactment of this Act.

4 (2) FIRST MEETING.—The Commission shall
5 hold its first meeting on the date that is 60 days
6 after the date of enactment of this Act, or not later
7 than 30 days after the date on which funds are
8 made available for the Commission, whichever is
9 later.

10 (3) ETHICS.—At the first meeting of the Com-
11 mission, the Commission shall draft appropriate eth-
12 ics guidelines for commissioners and staff, including
13 guidelines relating to conflict of interest and finan-
14 cial disclosure. The Commission shall consult with
15 the Senate and House Committees on the Judiciary
16 as a part of drafting the guidelines and furnish the
17 Committees with a copy of the completed guidelines.

18 (d) MEETINGS; QUORUM; VACANCIES.—

19 (1) MEETINGS.—The Commission shall meet at
20 the call of the chairman or his or her designee.

21 (2) QUORUM.—A majority of the members of
22 the Commission shall constitute a quorum for pur-
23 poses of conducting business, except that 2 members
24 of the Commission shall constitute a quorum for
25 purposes of receiving testimony.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day, so long as not less than 1 Commission member chosen by a member of each party, Republican and Democratic, is present.

(e) ACTIONS OF COMMISSION.—

(1) IN GENERAL.—The Commission—

(A) shall, subject to the requirements of section 5, act by resolution agreed to by a majority of the members of the Commission voting and present; and

(B) may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title—

(i) which shall be subject to the review and control of the Commission; and

(ii) any findings and determinations made by such a panel shall not be considered the findings and determinations of the

1 Commission unless approved by the Com-
2 mission.

3 (2) DELEGATION.—Any member, agent, or staff
4 of the Commission may, if authorized by the chair-
5 man of the Commission, take any action which the
6 Commission is authorized to take pursuant to this
7 Act.

8 **SEC. 7. ADMINISTRATION.**

9 (a) STAFF.—

10 (1) EXECUTIVE DIRECTOR.—The Commission
11 shall have a staff headed by an Executive Director.
12 The Executive Director shall be paid at a rate estab-
13 lished for the Certified Plan pay level for the Senior
14 Executive Service under section 5382 of title 5,
15 United States Code.

16 (2) APPOINTMENT AND COMPENSATION.—The
17 chairman of the Commission shall designate and fix
18 the compensation of the Executive Director and, in
19 accordance with rules agreed upon by the Commis-
20 sion, may appoint and fix the compensation of such
21 other personnel as may be necessary to enable the
22 Commission to carry out its functions, without re-
23 gard to the provisions of title 5, United States Code,
24 governing appointments in the competitive service,
25 and without regard to the provisions of chapter 51

1 and subchapter III of chapter 53 of such title relat-
2 ing to classification and General Schedule pay rates,
3 except that no rate of pay fixed under this sub-
4 section may exceed the equivalent of that payable for
5 a position at level V of the Executive Schedule under
6 section 5316 of title 5, United States Code.

7 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

8 (A) IN GENERAL.—The executive director
9 and any personnel of the Commission who are
10 employees shall be employees under section
11 2105 of title 5, United States Code, for pur-
12 poses of chapters 63, 81, 83, 84, 85, 87, 89,
13 and 90 of that title.

14 (B) MEMBERS OF COMMISSION.—Subpara-
15 graph (A) shall not be construed to apply to
16 members of the Commission.

17 (4) THE COMPENSATION OF COMMISSIONERS.—

18 Each member of the Commission may be com-
19 pensated at not to exceed the daily equivalent of the
20 annual rate of basic pay in effect for a position at
21 level V of the Executive Schedule under section 5315
22 of title 5, United States Code, for each day during
23 which that member is engaged in the actual per-
24 formance of the duties of the Commission. All mem-
25 bers of the Commission who are officers or employ-

1 ees of the United States, State, or local government
2 shall serve without compensation in addition to that
3 received for their services as officers or employees.

4 (5) TRAVEL EXPENSES.—While away from
5 their homes or regular places of business in the per-
6 formance of services for the Commission, members
7 of the Commission shall be allowed travel expenses,
8 including per diem in lieu of subsistence, in the
9 same manner as persons employed intermittently in
10 the Government service are allowed expenses under
11 section 5703(b) of title 5, United States Code.

12 (b) EXPERTS AND CONSULTANTS.—With the ap-
13 proval of the Commission, the Executive Director may
14 procure temporary and intermittent services under section
15 3109(b) of title 5, United States Code.

16 (c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon
17 the request of the Commission, the head of any Federal
18 agency may detail, without reimbursement, any of the per-
19 sonnel of such agency to the Commission to assist in car-
20 rying out the duties of the Commission. Any such detail
21 shall not interrupt or otherwise affect the civil service sta-
22 tus or privileges of the Federal employee.

23 (d) OTHER RESOURCES.—The Commission shall
24 have reasonable access to materials, resources, statistical
25 data, and other information such Commission determines

1 to be necessary to carry out its duties from the Library
2 of Congress, the Department of Justice, the Office of Na-
3 tional Drug Control Policy, the Department of State, and
4 other agencies of the executive and legislative branches of
5 the Federal Government. The chairman of the Commis-
6 sion shall make requests for such access in writing when
7 necessary.

8 (e) VOLUNTEER SERVICES.—Notwithstanding the
9 provisions of section 1342 of title 31, United States Code,
10 the Commission is authorized to accept and utilize the
11 services of volunteers serving without compensation. The
12 Commission may reimburse such volunteers for local travel
13 and office supplies, and for other travel expenses, includ-
14 ing per diem in lieu of subsistence, as authorized by sec-
15 tion 5703 of title 5, United States Code. A person pro-
16 viding volunteer services to the Commission shall be con-
17 sidered an employee of the Federal Government in per-
18 formance of those services for the purposes of chapter 81
19 of title 5, United States Code, relating to compensation
20 for work-related injuries, chapter 171 of title 28, United
21 States Code, relating to tort claims, and chapter 11 of
22 title 18, United States Code, relating to conflicts of inter-
23 est.

24 (f) OBTAINING OFFICIAL DATA.—The Commission
25 may secure directly from any agency of the United States

1 information necessary to enable it to carry out this Act.
2 Upon the request of the chairman of the Commission, the
3 head of that department or agency shall furnish that infor-
4 mation to the Commission. The Commission shall not have
5 access to sensitive information regarding ongoing inves-
6 tigations.

7 (g) **MAILS.**—The Commission may use the United
8 States mails in the same manner and under the same con-
9 ditions as other departments and agencies of the United
10 States.

11 (h) **ADMINISTRATIVE REPORTING.**—The Commission
12 shall issue biannual status reports to Congress regarding
13 the use of resources, salaries, and all expenditures of ap-
14 propriated funds.

15 (i) **CONTRACTS.**—The Commission is authorized to
16 enter into contracts with Federal and State agencies, pri-
17 vate firms, institutions, and individuals for the conduct of
18 activities necessary to the discharge of its duties and re-
19 sponsibilities. A contract, lease or other legal agreement
20 entered into by the Commission may not extend beyond
21 the date of the termination of the Commission.

22 (j) **GIFTS.**—Subject to existing law, the Commission
23 may accept, use, and dispose of gifts or donations of serv-
24 ices or property.

1 (k) ADMINISTRATIVE ASSISTANCE.—The Adminis-
 2 trator of General Services shall provide to the Commis-
 3 sion, on a reimbursable basis, the administrative support
 4 services necessary for the Commission to carry out its re-
 5 sponsibilities under this Act. These administrative services
 6 may include human resource management, budget, leas-
 7 ing, accounting, and payroll services.

8 (l) NONAPPLICABILITY OF FACA AND PUBLIC AC-
 9 CESS TO MEETINGS AND MINUTES.—

10 (1) IN GENERAL.—The Federal Advisory Com-
 11 mittee Act (5 U.S.C. App.) shall not apply to the
 12 Commission.

13 (2) MEETINGS AND MINUTES.—

14 (A) MEETINGS.—

15 (i) ADMINISTRATION.—All meetings of
 16 the Commission shall be open to the pub-
 17 lic, except that a meeting or any portion of
 18 it may be closed to the public if it concerns
 19 matters or information described in section
 20 552b(c) of title 5, United States Code. In-
 21 terested persons shall be permitted to ap-
 22 pear at open meetings and present oral or
 23 written statements on the subject matter
 24 of the meeting. The Commission may ad-

1 minister oaths or affirmations to any per-
2 son appearing before it.

3 (ii) NOTICE.—All open meetings of
4 the Commission shall be preceded by time-
5 ly public notice in the Federal Register of
6 the time, place, and subject of the meeting.

7 (B) MINUTES AND PUBLIC AVAIL-
8 ABILITY.—Minutes of each open meeting shall
9 be kept and shall contain a record of the people
10 present, a description of the discussion that oc-
11 curred, and copies of all statements filed. The
12 minutes and records of all open meetings and
13 other documents that were made available to or
14 prepared for the Commission shall be available
15 for public inspection and copying at a single lo-
16 cation in the offices of the Commission.

17 (m) ARCHIVING.—Not later than the date of termi-
18 nation of the Commission, all records and papers of the
19 Commission shall be delivered to the Archivist of the
20 United States for deposit in the National Archives.

21 **SEC. 8. AUTHORIZATION FOR USE OF FUNDS.**

22 For each of fiscal years 2019 and 2020, the Attorney
23 General may use, from any unobligated balances made
24 available under the heading “General Administration” to
25 the Department of Justice in an appropriations Act, such

1 amounts as are necessary, not to exceed \$7,000,000 per
2 fiscal year and not to exceed \$14,000,000 total for both
3 fiscal years, to carry out this Act, except that none of the
4 funds authorized to be used to carry out this Act may be
5 used for international travel.

6 **SEC. 9. SUNSET.**

7 The Commission shall terminate 60 days after the
8 Commission submits the report required under section
9 5(c) to Congress.

Passed the Senate December 22, 2018.

Attest:

Secretary.

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