

115TH CONGRESS
1ST SESSION

S. 573

To establish the National Criminal Justice Commission.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2017

Mr. PETERS (for himself, Mr. GRAHAM, Mr. CORNYN, Ms. STABENOW, Mr. COCHRAN, Mr. CASEY, Mr. BLUNT, Ms. BALDWIN, Mrs. McCASKILL, Mrs. CAPITO, Mr. WARNER, Mr. RUBIO, Ms. HEITKAMP, Mr. MERKLEY, Mr. HATCH, Mrs. GILLIBRAND, Ms. COLLINS, Ms. HARRIS, Mr. NELSON, Mr. KAINE, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Criminal Jus-
5 tice Commission Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

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

5 (3) that commission, in a span of 18 months,
6 produced a comprehensive report entitled “The
7 Challenge of Crime in a Free Society”, which con-
8 tained 200 specific recommendations on all aspects
9 of the criminal justice system involving Federal,
10 State, tribal, and local governments, civic organiza-
11 tions, religious institutions, business groups, and in-
12 dividual citizens; and

13 (4) developments over the intervening 50 years
14 require once again that Federal, State, tribal, and
15 local governments, law enforcement agencies, includ-
16 ing rank and file officers, civil rights organizations,
17 community-based organization leaders, civic organi-
18 zations, religious institutions, business groups, and
19 individual citizens come together to review evidence
20 and consider how to improve the criminal justice
21 system.

22 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

23 There is established a commission to be known as the
24 “National Criminal Justice Commission” (referred to in
25 this Act as the “Commission”).

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

2 The Commission shall—

3 (1) undertake a comprehensive review of the
4 criminal justice system;

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

7 (3) disseminate findings and supplemental guid-
8 ance to the Federal Government, as well as to State,
9 local, and tribal governments.

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

11 (a) GENERAL REVIEW.—The Commission shall un-
12 dertake a comprehensive review of all areas of the criminal
13 justice system, including Federal, State, local, and tribal
14 governments' criminal justice costs, practices, and policies.

15 (b) RECOMMENDATIONS.—

16 (1) IN GENERAL.—Not later than 18 months
17 after the first meeting of the Commission, the Com-
18 mission shall submit to the President and Congress
19 recommendations for changes in Federal oversight,
20 policies, practices, and laws designed to prevent,
21 deter, and reduce crime and violence, reduce recidi-
22 vism, improve cost-effectiveness, and ensure the in-
23 terests of justice at every step of the criminal justice
24 system.

25 (2) UNANIMOUS CONSENT REQUIRED.—A rec-
26 ommendation of the Commission may be adopted

1 and submitted under paragraph (1) if the rec-
2 ommendation is approved by a unanimous vote of
3 the Commissioners at a meeting where a quorum is
4 present pursuant to section 6(d).

5 (3) REQUIREMENT.—The recommendations
6 submitted under this subsection shall be made avail-
7 able to the public.

8 (c) REPORT.—

9 (1) IN GENERAL.—Not later than 18 months
10 after the first meeting of the Commission, the Com-
11 mission shall also disseminate to the Federal Gov-
12 ernment, as well as to State, local, and tribal gov-
13 ernments, a report that details the findings and sup-
14 plemental guidance of the Commission regarding the
15 criminal justice system at all levels of government.

16 (2) MAJORITY VOTE REQUIRED.—Commission
17 findings and supplemental guidance may be adopted
18 and included in the report required under paragraph
19 (1) if the findings or guidance is approved by a ma-
20 jority vote of the Commissioners at a meeting where
21 a quorum is present pursuant to section 6(d), except
22 that any Commissioners dissenting from particular
23 finding or supplemental guidance shall have the
24 right to state the reason for their dissent in writing

1 and such dissent shall be included in the report of
2 the Commission.

3 (3) REQUIREMENT.—The report submitted
4 under this subsection shall be made available to the
5 public.

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

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

14 (f) PUBLIC HEARINGS.—The Commission shall con-
15 duct public hearings in various locations around the
16 United States.

17 (g) CONSULTATION WITH GOVERNMENT AND NON-
18 GOVERNMENT REPRESENTATIVES.—

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

20 (A) closely consult with Federal, State,
21 local, and tribal government and nongovern-
22 mental leaders, including State, local, and tribal
23 law enforcement officials, including rank and
24 file officers, legislators, public health officials,
25 judges, court administrators, prosecutors, de-

1 fense counsel, victims' rights organizations, pro-
 2 bation and parole officials, criminal justice
 3 planners, criminologists, civil rights and lib-
 4 erties organizations, community-based organiza-
 5 tion leaders, formerly incarcerated individuals,
 6 professional organizations, and corrections offi-
 7 cials; and

8 (B) include in the final report required
 9 under subsection (c) summaries of the input
 10 and recommendations of these leaders.

11 (2) UNITED STATES SENTENCING COMMIS-
 12 SION.—To the extent the review and recommenda-
 13 tions required by this section relate to sentencing
 14 policies and practices for the Federal criminal jus-
 15 tice system, the Commission shall conduct such re-
 16 view and make such recommendations in consulta-
 17 tion with the United States Sentencing Commission.

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

19 It is the sense of the Congress that, given the national
 20 importance of the matters before the Commission, the
 21 Commission should work toward unanimously supported
 22 findings and supplemental guidance, and that unani-
 23 mously supported findings and supplemental guidance
 24 should take precedence over those findings and supple-
 25 mental guidance that are not unanimously supported.

1 **SEC. 6. MEMBERSHIP.**

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

4 (1) One member shall be appointed by the
5 President, who shall serve as co-chairman of the
6 Commission.

7 (2) One member shall be appointed by the lead-
8 er of the Senate, in consultation with the leader of
9 the House of Representatives, that is a member of
10 the opposite party of the President, who shall serve
11 as co-chairman of the Commission.

12 (3) Two members shall be appointed by the sen-
13 ior member of the Senate leadership of the Demo-
14 cratic Party, in consultation with the Democratic
15 leadership of the Committee on the Judiciary.

16 (4) Two members shall be appointed by the sen-
17 ior member of the Senate leadership of the Repub-
18 lican Party, in consultation with the Republican
19 leadership of the Committee on the Judiciary.

20 (5) Two members shall be appointed by the sen-
21 ior member of the leadership of the House of Rep-
22 resentatives of the Republican Party, in consultation
23 with the Republican leadership of the Committee on
24 the Judiciary.

25 (6) Two members shall be appointed by the sen-
26 ior member of the leadership of the House of Rep-

representatives of the Democratic Party, in consultation with the Democratic leadership of the Committee on the Judiciary.

(7) Two members, who shall be State and local representatives, shall be appointed by the President in agreement with leader of the Senate (majority or minority leader, as the case may be) of the Republican Party and the leader of the House of Representatives (majority or minority leader, as the case may be) of the Republican Party.

(8) Two members, who shall be State and local representatives, shall be appointed by the President in agreement with leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party and the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party.

(b) MEMBERSHIP.—

(1) QUALIFICATIONS.—The individuals appointed from private life as members of the Commission shall be individuals with distinguished reputations for integrity and nonpartisanship who are nationally recognized for expertise, knowledge, or experience in such relevant areas as—

(A) law enforcement;

- 1 (B) criminal justice;
- 2 (C) national security;
- 3 (D) prison and jail administration;
- 4 (E) prisoner reentry;
- 5 (F) public health, including physical and
- 6 sexual victimization, drug addiction and mental
- 7 health;
- 8 (G) victims' rights;
- 9 (H) civil rights;
- 10 (I) civil liberties;
- 11 (J) court administration;
- 12 (K) social services; and
- 13 (L) State, local, and tribal government.

14 (2) DISQUALIFICATION.—An individual shall
 15 not be appointed as a member of the Commission if
 16 such individual possesses any personal financial in-
 17 terest in the discharge of any of the duties of the
 18 Commission.

19 (3) TERMS.—Members shall be appointed for
 20 the life of the Commission.

21 (c) APPOINTMENT; FIRST MEETING.—

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

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

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

15 (d) MEETINGS; QUORUM; VACANCIES.—

16 (1) MEETINGS.—The Commission shall meet at
17 the call of the co-chairs or a majority of its mem-
18 bers.

19 (2) QUORUM.—Eight members of the Commis-
20 sion shall constitute a quorum for purposes of con-
21 ducting business, except that 2 members of the
22 Commission shall constitute a quorum for purposes
23 of receiving testimony.

24 (3) VACANCIES.—Any vacancy in the Commis-
25 sion shall not affect its powers, but shall be filled in

1 the same manner in which the original appointment
 2 was made. If vacancies in the Commission occur on
 3 any day after 45 days after the date of the enact-
 4 ment of this Act, a quorum shall consist of a major-
 5 ity of the members of the Commission as of such
 6 day, so long as not less than 1 Commission member
 7 chosen by a member of each party, Republican and
 8 Democratic, is present.

9 (e) ACTIONS OF COMMISSION.—

10 (1) IN GENERAL.—The Commission—

11 (A) shall, subject to the requirements of
 12 section 5, act by resolution agreed to by a ma-
 13 jority of the members of the Commission voting
 14 and present; and

15 (B) may establish panels composed of less
 16 than the full membership of the Commission for
 17 purposes of carrying out the duties of the Com-
 18 mission under this title—

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

21 (ii) any findings and determinations
 22 made by such a panel shall not be consid-
 23 ered the findings and determinations of the
 24 Commission unless approved by the Com-
 25 mission.

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

6 **SEC. 7. ADMINISTRATION.**

7 (a) STAFF.—

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

14 (2) APPOINTMENT AND COMPENSATION.—The
15 co-chairs of the Commission shall designate and fix
16 the compensation of the Executive Director and, in
17 accordance with rules agreed upon by the Commis-
18 sion, may appoint and fix the compensation of such
19 other personnel as may be necessary to enable the
20 Commission to carry out its functions, without re-
21 gard to the provisions of title 5, United States Code,
22 governing appointments in the competitive service,
23 and without regard to the provisions of chapter 51
24 and subchapter III of chapter 53 of such title relat-
25 ing to classification and General Schedule pay rates,

1 except that no rate of pay fixed under this sub-
2 section may exceed the equivalent of that payable for
3 a position at level V of the Executive Schedule under
4 section 5316 of title 5, United States Code.

5 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

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

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

15 (4) THE COMPENSATION OF COMMISSIONERS.—

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

1 shall serve without compensation in addition to that
2 received for their services as officers or employees.

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

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

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

22 (d) OTHER RESOURCES.—The Commission shall
23 have reasonable access to materials, resources, statistical
24 data, and other information such Commission determines
25 to be necessary to carry out its duties from the Library

1 of Congress, the Department of Justice, the Office of Na-
2 tional Drug Control Policy, the Department of State, and
3 other agencies of the executive and legislative branches of
4 the Federal Government. The co-chairs of the Commission
5 shall make requests for such access in writing when nec-
6 essary.

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

23 (f) OBTAINING OFFICIAL DATA.—The Commission
24 may secure directly from any agency of the United States
25 information necessary to enable it to carry out this Act.

1 Upon the request of the co-chairs of the Commission, the
2 head of that department or agency shall furnish that infor-
3 mation to the Commission. The Commission shall not have
4 access to sensitive information regarding ongoing inves-
5 tigations.

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

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

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

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

24 (k) **ADMINISTRATIVE ASSISTANCE.**—The Adminis-
25 trator of General Services shall provide to the Commis-

1 sion, on a reimbursable basis, the administrative support
 2 services necessary for the Commission to carry out its re-
 3 sponsibilities under this Act. These administrative services
 4 may include human resource management, budget, leas-
 5 ing, accounting, and payroll services.

6 (l) NONAPPLICABILITY OF FACCA AND PUBLIC AC-
 7 CESS TO MEETINGS AND MINUTES.—

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

11 (2) MEETINGS AND MINUTES.—

12 (A) MEETINGS.—

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

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

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

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

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

20 For each of fiscal years 2017 and 2018, the Attorney
21 General may use, from any unobligated balances made
22 available under the heading “GENERAL ADMINISTRA-
23 TION” to the Department of Justice in an appropriations
24 Act, such amounts as are necessary, not to exceed
25 \$7,000,000 per fiscal year and not to exceed \$14,000,000

1 total for both fiscal years, to carry out this Act, except
2 that none of the funds authorized to be used to carry out
3 this Act may be used for international travel.

4 **SEC. 9. SUNSET.**

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

○