

116TH CONGRESS
1ST SESSION

S. 2434

To establish the National Criminal Justice Commission.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2019

Mr. PETERS (for himself, Mr. GRAHAM, and Mr. CORNYN) 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 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) it is in the interest of the United States to
9 establish a commission to undertake a comprehen-
10 sive review 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) in a span of 18 months, the President’s
6 Commission on Law Enforcement and Administra-
7 tion of Justice produced a comprehensive report en-
8 titled “The Challenge of Crime in a Free Society”,
9 which contained 200 specific recommendations on all
10 aspects of the criminal justice system involving—

11 (A) Federal, State, Tribal, and local gov-
12 ernments;

13 (B) civic organizations;

14 (C) religious institutions;

15 (D) business groups; and

16 (E) individual citizens; and

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

1 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

2 There is established a commission to be known as the
3 “National Criminal Justice Commission” (referred to in
4 this Act as the “Commission”).

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

6 The Commission shall—

7 (1) undertake a comprehensive review of the
8 criminal justice system;

9 (2) submit to the President and Congress rec-
10 ommendations for Federal criminal justice reform;
11 and

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

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

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

21 (b) RECOMMENDATIONS.—

22 (1) IN GENERAL.—Not later than 18 months
23 after the date of the first meeting of the Commis-
24 sion, the Commission shall submit to the President
25 and Congress recommendations for changes in Fed-
26 eral oversight, policies, practices, and laws designed

1 to prevent, deter, and reduce crime and violence, re-
2 duce recidivism, improve cost-effectiveness, and en-
3 sure the interests of justice at every step of the
4 criminal justice system.

5 (2) UNANIMOUS CONSENT.—If a unanimous
6 vote of the members of the Commission at a meeting
7 where a quorum is present pursuant to section 6(d)
8 approves a recommendation of the Commission, the
9 Commission may adopt and submit the recommenda-
10 tion under paragraph (1).

11 (3) PUBLIC ACCESS.—The recommendations
12 submitted under this subsection shall be made avail-
13 able to the public.

14 (c) REPORT.—

15 (1) IN GENERAL.—Not later than 18 months
16 after the date of the first meeting of the Commis-
17 sion, the Commission shall disseminate to the Fed-
18 eral Government, as well as to State, local, and
19 Tribal governments, a report that details the find-
20 ings and supplemental guidance of the Commission
21 regarding the criminal justice system at all levels of
22 government.

23 (2) MAJORITY VOTE.—If a majority vote of the
24 members of the Commission approves a finding or
25 supplemental guidance at a meeting where a quorum

1 is present pursuant to section 6(d), the finding or
2 supplemental guidance may be adopted and included
3 in the report required under paragraph (1).

4 (3) DISSENTS.—In the case of a member of the
5 Commission who dissents from a finding or supple-
6 mental guidance approved by a majority vote under
7 paragraph (2), the member may state the reason for
8 the dissent in writing and the report described in
9 paragraph (1) shall include the dissent.

10 (4) PUBLIC ACCESS.—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 the review of the Commission.

16 (e) STATE AND LOCAL GOVERNMENTS.—In issuing
17 the recommendations and report of the Commission under
18 this section, the Commission shall not infringe on the le-
19 gitimate rights of the States to determine the criminal
20 laws of the States or the enforcement 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 governments and nongovern-
4 ment leaders, including—

5 (i) State, local, and Tribal law en-
6 forcement officials, including rank and file
7 officers;

8 (ii) legislators;

9 (iii) public health officials;

10 (iv) judges;

11 (v) court administrators;

12 (vi) prosecutors;

13 (vii) defense counsel;

14 (viii) victims' rights organizations;

15 (ix) probation and parole officials;

16 (x) criminal justice planners;

17 (xi) criminologists;

18 (xii) civil rights and liberties organiza-
19 tions;

20 (xiii) community-based organization
21 leaders;

22 (xiv) formerly incarcerated individ-
23 uals;

24 (xv) professional organizations; and

25 (xvi) corrections officials; and

1 (B) include in the final report required
 2 under subsection (c) summaries of the input
 3 and recommendations of the leaders consulted
 4 under subparagraph (A).

5 (2) UNITED STATES SENTENCING COMMIS-
 6 SION.—To the extent the review and recommenda-
 7 tions required by this section relate to sentencing
 8 policies and practices for the Federal criminal jus-
 9 tice system, the Commission shall conduct the review
 10 in consultation with the United States Sentencing
 11 Commission.

12 (h) SENSE OF CONGRESS ON UNANIMITY.—It is the
 13 sense of Congress that, given the national importance of
 14 the matters before the Commission—

15 (1) the Commission should work toward devel-
 16 oping findings and supplemental guidance that are
 17 unanimously supported by the members of the Com-
 18 mission; and

19 (2) a finding or supplemental guidance unani-
 20 mously supported by the members of the Commis-
 21 sion should take precedence over a finding or supple-
 22 mental guidance that is not unanimously supported.

23 **SEC. 6. MEMBERSHIP.**

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

1 (1) The President shall appoint 1 member, who
2 shall serve as a co-chairperson of the Commission.

3 (2) The co-chairperson described in paragraph
4 (1) shall appoint 6 members in consultation with the
5 leadership of—

6 (A) the Senate and House of Representa-
7 tives of the same political party as the Presi-
8 dent;

9 (B) the Committee on the Judiciary of the
10 House of Representatives of the same political
11 party as the President; and

12 (C) the Committee on the Judiciary of the
13 Senate of the same political party as the Presi-
14 dent.

15 (3) The leader of the Senate, in consultation
16 with the leader of the House of Representatives who
17 is a member of the opposite party of the President,
18 shall appoint 1 member, who shall serve as a co-
19 chairperson of the Commission.

20 (4) The co-chairperson described in paragraph
21 (3) shall appoint 6 members in consultation with the
22 leadership of—

23 (A) the Senate and House of Representa-
24 tives of the opposite political party as the Presi-
25 dent;

1 (B) the Committee on the Judiciary of the
 2 House of Representatives of the opposite polit-
 3 ical party as the President; and

4 (C) the Committee on the Judiciary of the
 5 Senate of the opposite political party as the
 6 President.

7 (b) MEMBERSHIP.—

8 (1) IN GENERAL.—A member shall be ap-
 9 pointed based upon knowledge or experience in a rel-
 10 evant area, including—

11 (A) law enforcement;

12 (B) criminal justice;

13 (C) national security;

14 (D) prison and jail administration;

15 (E) prisoner reentry;

16 (F) public health, including—

17 (i) physical and sexual victimization;

18 (ii) drug addiction; or

19 (iii) mental health;

20 (G) the rights of victims;

21 (H) civil rights;

22 (I) civil liberties;

23 (J) court administration;

24 (K) social services; or

25 (L) State, local, or Tribal government.

1 (2) LAW ENFORCEMENT REPRESENTATION.—

2 (A) MEMBERS APPOINTED BY THE CO-
3 CHAIRPERSONS.—Of the 6 members appointed
4 by the co-chairperson under subsection (a)(2)—

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

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

11 (B) OTHER MEMBERS.—Of the 6 members
12 appointed under subsection (a)(4)—

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

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

19 (3) DISQUALIFICATION.—If an individual pos-
20 sesses a personal financial interest in the discharge
21 of a duty of the Commission, the individual may not
22 be appointed as a member of the Commission.

23 (4) TERMS.—A member shall be appointed for
24 the duration of the Commission.

25 (c) APPOINTMENTS AND FIRST MEETING.—

1 (1) APPOINTMENTS.—Each member of the
2 Commission shall be appointed not later than 45
3 days after the date of enactment of this Act.

4 (2) FIRST MEETING.—The Commission shall
5 hold the first meeting of the Commission on the
6 date, whichever is later, that is not later than—

7 (A) 60 days after the date of enactment of
8 this Act; or

9 (B) 30 days after the date on which funds
10 are made available for the Commission.

11 (3) ETHICS.—At the first meeting of the Com-
12 mission, the Commission shall—

13 (A) draft appropriate ethics guidelines for
14 members and staff of the Commission, includ-
15 ing guidelines relating to—

16 (i) conflict of interest; and

17 (ii) financial disclosure;

18 (B) consult with the Committees on the
19 Judiciary of the Senate and the House of Rep-
20 resentatives as a part of drafting the guidelines;
21 and

22 (C) provide each Committee described in
23 subparagraph (B) with a copy of the guidelines
24 completed under subparagraph (A).

25 (d) MEETINGS, QUORUM, AND VACANCIES.—

1 (1) MEETINGS.—The Commission shall meet at
2 the call of—

3 (A) the co-chairpersons; or

4 (B) a majority of the members of the Com-
5 mission.

6 (2) QUORUM.—Except as provided in para-
7 graph (3)(B), a majority of the members of the
8 Commission shall constitute a quorum for purposes
9 of conducting business, except that 2 members of
10 the Commission shall constitute a quorum for pur-
11 poses of receiving testimony.

12 (3) VACANCIES.—

13 (A) IN GENERAL.—A vacancy in the Com-
14 mission shall not affect a power of the Commis-
15 sion, and the vacancy shall be filled in the same
16 manner in which the original appointment was
17 made.

18 (B) QUORUM.—In the case of a vacancy
19 occurring after the date that is 45 days after
20 the date of enactment of this Act, until the date
21 on which the vacancy is filled, a majority of the
22 members of the Commission shall constitute a
23 quorum if—

- 1 (i) not fewer than 1 member of the
 2 Commission appointed under paragraph
 3 (1) or (2) of subsection (a) is present; and
 4 (ii) not fewer than 1 member of the
 5 Commission appointed under paragraph
 6 (3) or (4) of subsection (a) is present.

7 (e) ACTIONS OF THE COMMISSION.—

8 (1) IN GENERAL.—The Commission—

9 (A) shall, subject to section 5, act by a res-
 10 olution agreed to by a majority of the members
 11 of the Commission voting and present; and

12 (B) may establish a panel composed of less
 13 than the full membership of the Commission for
 14 purposes of carrying out a duty of the Commis-
 15 sion under this Act, which—

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

18 (ii) may make a finding or determina-
 19 tion that may be considered a finding or
 20 determination of the Commission if the
 21 finding or determination is approved by
 22 the Commission.

23 (2) DELEGATION.—If authorized by the co-
 24 chairpersons of the Commission, a member, agent,

1 or staff member of the Commission may take an ac-
2 tion that the Commission may take under this Act.

3 **SEC. 7. ADMINISTRATION.**

4 (a) STAFF.—

5 (1) EXECUTIVE DIRECTOR.—The Commission
6 shall have a staff headed by an Executive Director,
7 who shall be paid at a rate established for the Cer-
8 tified Plan pay level for the Senior Executive Service
9 under section 5382 of title 5, United States Code.

10 (2) APPOINTMENTS AND COMPENSATION.—The
11 co-chairpersons of the Commission shall designate
12 and fix the compensation of the Executive Director
13 and, in accordance with rules agreed upon by the
14 Commission, may appoint and fix the compensation
15 of such other personnel as may be necessary to en-
16 able the Commission to carry out its functions, with-
17 out regard to the provisions of title 5, United States
18 Code, governing appointments in the competitive
19 service, and without regard to the provisions of
20 chapter 51 and subchapter III of chapter 53 of such
21 title relating to classification and General Schedule
22 pay rates, except that no rate of pay fixed under this
23 subsection may exceed the equivalent of that payable
24 for a position at level V of the Executive Schedule
25 under section 5316 of title 5, United States Code.

1 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

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

8 (B) MEMBERS OF THE COMMISSION.—
9 Subparagraph (A) shall not be construed to
10 apply to members of the Commission.

11 (4) THE COMPENSATION OF MEMBERS.—

12 (A) NON-FEDERAL EMPLOYEES.—A mem-
13 ber of the commission who is not an officer or
14 employee of the Federal Government shall be
15 compensated at a rate equal to the daily equiva-
16 lent of the annual rate of basic pay prescribed
17 for level IV of the Executive Schedule under
18 section 5315 of title 5, United States Code, for
19 each day (including travel time) during which
20 the member is engaged in the performance of
21 the duties of the Board.

22 (B) FEDERAL EMPLOYEES.—A member of
23 the commission who is an officer or employee of
24 the Federal Government shall serve without
25 compensation in addition to the compensation

1 received for the services of the member as an
2 officer or employee of the Federal Government.

3 (5) TRAVEL EXPENSES.—A member of the
4 Commission shall be allowed travel expenses, includ-
5 ing per diem in lieu of subsistence, at rates author-
6 ized for employees of agencies under subchapter I of
7 chapter 57 of title 5, United States Code, while
8 away from the home or regular places of business of
9 the member in the performance of services for the
10 Commission.

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, a Federal Government em-
17 ployee may be detailed to the Commission without reim-
18 bursement, and such detail shall be without interruption
19 or loss of civil service status or privilege.

20 (d) OTHER RESOURCES.—

21 (1) IN GENERAL.—The Commission shall have
22 reasonable access to materials, resources, statistical
23 data, and other information such Commission deter-
24 mines to be necessary to carry out its duties from—

25 (A) the Library of Congress;

- 1 (B) the Department of Justice;
- 2 (C) the Office of National Drug Control
- 3 Policy;
- 4 (D) the Department of State; and
- 5 (E) other agencies of the executive or legis-
- 6 lative branch of the Federal Government.

7 (2) REQUESTS FOR RESOURCES.—The co-chair-

8 persons of the Commission shall make requests for

9 the access described in paragraph (1) in writing

10 when necessary.

11 (e) VOLUNTEER SERVICES.—Notwithstanding sec-

12 tion 1342 of title 31, United States Code, the Commis-

13 sion—

14 (1) may—

15 (A) accept and use the services of an indi-

16 vidual volunteering to serve without compensa-

17 tion; and

18 (B) reimburse the individual described in

19 subparagraph (A) for local travel, office sup-

20 plies, and for other travel expenses, including

21 per diem in lieu of subsistence, as authorized by

22 section 5703 of title 5, United States Code; and

23 (2) shall consider the individual described in

24 paragraph (1) an employee of the Federal Govern-

1 ment in performance of those services for the pur-
2 poses of—

3 (A) chapter 81 of title 5, United States
4 Code, relating to compensation for work-related
5 injuries;

6 (B) chapter 171 of title 28, United States
7 Code, relating to tort claims; and

8 (C) chapter 11 of title 18, United States
9 Code, relating to conflicts of interest.

10 (f) OBTAINING OFFICIAL DATA.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (3), the Commission may directly secure from
13 an agency of the United States information nec-
14 essary to enable the Commission to carry out this
15 Act.

16 (2) PROCEDURES.—Upon the request of the co-
17 chairpersons of the Commission, the head of the
18 agency shall furnish any information requested
19 under paragraph (1) to the Commission.

20 (3) SENSITIVE INFORMATION.—The Commis-
21 sion may not have access to sensitive information re-
22 garding ongoing investigations.

23 (g) MAILS.—The Commission may use the United
24 States mails in the same manner and under the same con-

1 ditions as other departments and agencies of the United
2 States.

3 (h) BIENNIAL REPORTS.—The Commission shall
4 submit biennial status reports to Congress regarding—

5 (1) the use of resources;

6 (2) salaries; and

7 (3) all expenditures of appropriated funds.

8 (i) CONTRACTS.—

9 (1) IN GENERAL.—The Commission may enter
10 into a contract with a Federal or State agency, a
11 private firm, an institution, or an individual for the
12 conduct of an activity necessary to the discharge of
13 a duty or responsibility of the Commission.

14 (2) TIMING.—A contract, lease, or other legal
15 agreement the Commission enters into may not ex-
16 tend beyond the date of the termination of the Com-
17 mission.

18 (j) GIFTS.—The Commission may accept, use, or dis-
19 pose of a gift or donation of a service or property.

20 (k) ADMINISTRATIVE ASSISTANCE.—The Adminis-
21 trator of General Services shall provide to the Commis-
22 sion, on a reimbursable basis, the administrative support
23 services necessary for the Commission to carry out the re-
24 sponsibilities of the Commission under this Act, which
25 may include—

- 1 (1) human resource management;
- 2 (2) budget;
- 3 (3) leasing;
- 4 (4) accounting; or
- 5 (5) payroll services.

6 (l) NON-APPLICABILITY OF FACA 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.—Each meeting
14 of the Commission shall be open to the
15 public, except that a meeting or any por-
16 tion of it may be closed to the public if it
17 concerns matters or information described
18 in section 552b(c) of title 5, United States
19 Code.

20 (ii) INTERESTED INDIVIDUALS.—An
21 interested individual may—

22 (I) appear at an open meeting;

23 (II) present an oral or written
24 statement on the subject matter of the
25 meeting; and

1 (III) be administered an oath or
2 affirmation.

3 (iii) NOTICE.—Each open meeting 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 ACCESS.—

8 (i) MINUTES.—Minutes of each open
9 meeting shall be kept and shall contain a
10 record of—

11 (I) the people present;

12 (II) a description of the discus-
13 sion that occurred; and

14 (III) a copy of each statement
15 filed.

16 (ii) PUBLIC ACCESS.—The minutes
17 and records of each open meeting and
18 other documents that were made available
19 to or prepared for the Commission shall be
20 available for public inspection and copying
21 at a single location in the offices of the
22 Commission.

23 (m) ARCHIVING.—Not later than the date described
24 in section 9, all records and papers of the Commission

1 shall be delivered to the Archivist of the United States
2 for deposit in the National Archives.

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

4 For each of fiscal years 2020 and 2021, the Attorney
5 General may use, from an unobligated balance made avail-
6 able under the heading “General Administration” to the
7 Department of Justice in an appropriations Act, such
8 amounts as are necessary, not to exceed \$7,000,000 per
9 fiscal year and not to exceed \$14,000,000 total for both
10 fiscal years, to carry out this Act, except that none of the
11 funds authorized to be used to carry out this Act may be
12 used for international travel.

13 **SEC. 9. SUNSET.**

14 The Commission shall terminate 60 days after the
15 date on which the Commission submits the report required
16 under section 5(c) to Congress.

○