

## Data Collection - Recommendation

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1. Working group name:

*Law Enforcement Working Group*

2. Individual sponsor(s):

*Chuck Calloway, Las Vegas Metro Police Department*

*Pamela Del Porto, Inspector General, Nevada Department of Corrections*

*Adam Page, Captain, Nevada Highway Patrol*

*Keith Carter, Director, High Intensity Drug Trafficking Area*

3. Describe the recommendation:

*The working group recommends development of a strategic plan for implementation of an on-going multi-jurisdictional data collection, management, extraction, comparison and reporting process in order to evaluate the impacts of recreational marijuana on public safety and health and welfare safety. This recommendation also includes, through the strategic plan, the development and processes for baseline statistical data and gap analysis for comparison with subsequent years. Accurate data collection requires a systematic across the board identification of the specific data to be retrievable, storable, and collectible for comparison and evaluation in an organized manner. This should also include a priority assessed for each type of data, based upon the priority set by the Governor's Task Force on the Implementation of Ballot Question 2.*

*The following recommendations are begin submitted to support the development of not only the strategic plan, but the multi-jurisdictional needs and/or requests as well:*

*1) Identify an independent contractor to facilitate development of the initial strategic plan, its goals, objectives, analysis, to include standard processes when possible;*

*2) Identify all private, state, local, educational, health and welfare and marijuana impacted agencies or companies to establish the stakeholders with organized meetings **by the strategic plan developer and coordinator (contractor);***

*3) Identify the data that should be collected, managed, extracted, compared and reported annually, once the base line is established;*

*(a) If Stakeholder cannot or currently do not collect, what hurdles need to be overcome to reach a level of storage and collection;*

*(b) What regulatory agency should collect and report annually, and to whom; and.*

*(c) Identify what regulations, mandating collection, storage, retrieval and reporting needs to be put in place in order for each stakeholder to cooperate in data collection efforts.*

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- 4) Identify what, if any, new Administrative, Civil or Statutory requirements need to be revised and/or implemented in order to assist any agency or organization with collection and management of data; and
- 5) Identify revenue, expenses, and application of funds related to the 15% excise tax fee in the annual report.

\* As an example, I will refer each reviewer to a Data Discovery and Gap Analysis report completed on behalf of the State of Colorado.

<https://www.awcnet.org/portals/0/documents/legislative/Marijuana...>

### DATA COLLECTION – DATA SET LIST RECOMMENDATION

Marijuana related incidents, not subject to arrest, by location, age

Marijuana related arrests, **and convictions** by location, age

Marijuana related traffic accidents, non-fatal, by location, age, position in vehicle

Marijuana related traffic accidents, fatal, by location, age, position in vehicle

Marijuana related business related crimes or citations\*

Comprehensive School Data\*, by location, age, type of incident, and who involved\*

Comprehensive Mental/Medical Health information, by location, type of incident, who involved\*

Impacts of recreational marijuana use on health\*

Application and Excise fee revenue, expenditures, distribution

**Impacts of recreational marijuana diversion to other states**

**Impacts of recreational marijuana trafficking due to legalization in surrounding states.**

\*Some of the Data Set were included based upon the Colorado Gap report.

4. Which guiding principle(s) does this recommendation support?

*Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities.*

*Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments, and the industry.*

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*Guiding Principle 3 - Ensure that youth are protected from the risks associated with marijuana, including preventing the diversion of marijuana to anyone under the age of 21.*

*Guiding Principle 4. - Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome.*

*Guiding Principle 5 -. Begin a discussion between the State and local governments regarding the costs of carrying out Question 2.*

*Guiding Principle 6 - Establish regulations that are clear and practical, so that interactions between law enforcement (at the local, state and federal levels), consumers and licensees are predictable and understandable.*

5. What provision(s) of Question 2 does this recommendation apply to?

- 1) *Data collection would apply to the number of licensed marijuana establishments and their location in the county to show compliance and the percentage of non-compliance based upon population of the county;*
- 2) *Data collection would apply to the imposition of civil or criminal penalties for driving under the influence of marijuana; knowingly selling or giving marijuana to a person under 21 years of age; possessing or using marijuana or marijuana paraphernalia in state correctional centers; and the other outline provisions, including possession or using marijuana on school grounds of Question 2;*
- 3) *Data collection would apply to the application and excise tax in order to determine the amount of money generated and in turn expended and to which area the funding supported;*
- 4) *Data collection would also apply to the criminal penalties for certain violation related to possession, use, sale, and cultivation of marijuana and marijuana plants.*

6. What issue(s) does the recommendation resolve?

*In order to evaluate what if any impact recreational marijuana use has, data collection will have to be mandated from each of the stakeholders, once they are identified. Data collection would have to be done for all facets of the industry as well as local and state law enforcement, Juvenile Justice and education, and traffic and public safety. Data collection is used as a tool and means by which measurements and comparisons can be made to ascertain if policy(s), practice(s), and regulatory changes need to be made based upon trends*

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

None

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

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*As part of the strategic plan and implementation, each stakeholder will have to evaluate their current availability of records, information and data compared to the developed list of data needs and then identify what changes or additions to NAC and/or NRS will have to be done. These may include:*

*NAC and/or NRS 242;*

*NAC and NRS 179A to ascertain if any Nevada Offense Codes will be have to be added, revised and how capture*

*NAC and NRS 458,*

*NAC and NRS 453*

9. Additional information (cost of implementation, priority according to the recommendation, etc.).

*Fiscal impact notes will also have to be developed, evaluated and addressed through each of the stakeholders and a priority should be applied based upon recommendations from the Governor's Task Force. As previously discussed by NHP Captain Page, a data gap has been discovered related to DUIDR because the labs currently only test until alcohol is detected and I order to fully identify if marijuana or other drugs were present to just marijuana/drugs themselves, additional testing has to be conducted.*

*Additionally, should the recommendation be accepted there will be a fiscal impact related to the contracting for the purpose of the strategic plan, implementation and processes for data collection, management and reporting.*

## Open Container and Personal Transport - Recommendation

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1. Working group name:

*Law Enforcement Working Group*

2. Individual sponsor(s):

*Josh Chaney, Deputy, Carson City Sheriff's Office*

*Pam Del Porto, Inspector General, Nevada Department of Corrections*

3. Describe the recommendation:

*The working Group submits the following language change be added to the existing Nevada Revised Statute (NRS) for Open Container/Personal Transportation:*

***NRS 484B.150 Drinking alcoholic beverage while driving motor vehicle unlawful; open container of alcoholic beverage; additional penalty for violation committed in work zone or pedestrian safety zone.***

*1. It is unlawful for a person to drink an alcoholic beverage or ingest marijuana, concentrated cannabis, edibles or THC infused drinks while the person is driving or in actual physical control of a motor vehicle upon a highway or where the public has access.*

*2. Except as otherwise provided in this subsection, it is unlawful for a person to have an open container of an alcoholic beverage, drug paraphernalia, concentrated cannabis, edibles or THC infused drinks within the passenger area of a motor vehicle while the motor vehicle is upon a highway. This subsection does not apply to:*

*(a) The passenger area of a motor vehicle which is designed, maintained or used primarily for the transportation of persons for compensation; or*

*(b) The living quarters of a house coach or house trailer,*

*Ê but does apply to the driver of such a motor vehicle who is in possession or control of an open container of an alcoholic beverage.*

*3. A person who violates any provision of this section may be subject to any additional penalty set forth in NRS 484B.130 or 484B.135.*

*4. As used in this section:*

*(a) "Alcoholic beverage" has the meaning ascribed to it in NRS 202.015.*

*(b) "Open container" means a container which has been opened or the seal of which has been broken.*

*(c) "Passenger area" means that area of a vehicle which is designed for the seating of the driver or a passenger.*

***(d.) "Drug Paraphernalia" has the meaning ascribed to it in NRS 453.554***

***(Added to NRS by 1971, 315; A 1991, 838; 2003, 3246; 2013, 542; 2015, 1561) — (Substituted in revision for NRS 484.448)***

## Open Container and Personal Transport - Recommendation

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4. Which guiding principle(s) does this recommendation support?

*Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities*

*Guiding Principle 3 - Ensure that youth are protected from the risks associated with marijuana, including preventing the diversion of marijuana to anyone under the age of 21*

*Guiding Principle 4 – Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome.*

*Guiding Principle 6 - Establish regulations that are clear and practical, so that interactions between law enforcement (at the local, state, and federal levels), consumers, and licensees are predictable and understandable.*

5. What provision(s) of Question 2 does this recommendation apply to?

*Section (4) Limitations: Section 1 to Section 18 do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:*

- a. Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana.*
- e. Undertaking any task under the influence of marijuana that constitutes negligence or professional malpractice.*

6. What issue(s) does the recommendation resolve?

*This recommendation will resolve the issue of personal transportation of paraphernalia; cannabis infused items, edibles, as well as marijuana.*

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

*No Dissent*

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

*An update of the existing NRS would be needed to reflect the changes in the statute for NRS 484B.150 regarding open container in a motor vehicle.*

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

*Little to no cost*

## Preventing Diversion to Other States - Recommendation

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1. Working group name:

*Law Enforcement Working Group*

2. Individual sponsor(s):

*Adam W. Page, Captain, Department of Public Safety, Nevada Highway Patrol*

*Mike Allen, Sheriff, Humboldt County*

*Keith Carter, Director, High Intensity Drug Trafficking Area (HIDTA)*

3. Describe the recommendation:

*The working group submits that the need for marijuana diversion to outside states is a critical component for three primary reasons:*

*1. It is an enforcement priority for the federal government as described in the US Attorney's memorandum on [Guidance Regarding Marijuana Enforcement](#) (James M. Cole, August 29, 2013);*

*2. It will take preventive measures to ensure that Nevada's legalization of recreational marijuana does not negatively impact the criminal justice system in states where it remains illegal; and*

*3. To deter, detect, and apprehend drug trafficking organizations that are operating on Nevada's roadways. The following are recommendations that will support marijuana diversion to outside states:*

- A. Develop public service announcements (PSA) and other signage, in and/or near dispensaries, informing marijuana consumers that travelling into other states with marijuana and other related products is unlawful.*
- B. Partner with members of the travel and parcel industry in an effort to educate their patrons and foster cooperation when criminal activity is detected.*
- C. Encourage and strengthen criminal interdiction efforts on interstate traffic routes.*
- D. Promote the understanding that marijuana possession over a certain quantity is still a felony crime with various legal consequences. Therefore, marijuana odor coupled with other criminal indicators should remain a component in establishing probable cause to investigate criminal activity.*
- E. If evidence is established that a licensed dispensary is knowingly or negligently involved in selling large amounts of marijuana to those that travel out of state, enforce both criminal and civil penalties against the dispensary.*

## Preventing Diversion to Other States - Recommendation

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i. *Our working group would like to support any recommendation by the Operations and Retail Establishment Working Group that would aid in tracking inventory and sales with the intent to deter inappropriate distribution.*

F. *Monitor the impact of marijuana being transported out of state. If data suggests that Nevada's legalization of recreational marijuana is increasing marijuana related charges in neighboring states, then consider lowering trafficking level thresholds or increasing criminal penalties.*

4. Which guiding principle(s) does this recommendation support?

*Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments and the industry.*

*Guiding Principle 6 - Establish regulations that are clear and practical, so that interactions between law enforcement (at the local, state, and federal levels), consumers, and licensees are predictable and understandable.*

5. What provision(s) of Question 2 does this recommendation apply to?

*Section (2) Preamble: The People of the State of Nevada proclaim that marijuana should be regulated in a manner similar to alcohol so that:*

*c. Cultivating, manufacturing, testing, transporting, and selling marijuana will be strictly controlled through state licensing and regulation.*

*Section (5) Powers and Duties of the Department: 1. Not later than 12 months after the effective date of this act, the Department shall adopt all regulations necessary or convenient to carry out the provision of sections 1 to 18, inclusive, of this act. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation impracticable. The regulations shall include:*

*m. Civil penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of section 13 of this act.*

*Section (5) Powers and Duties of the Department: 4. The Department may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of sections 1 to 18, inclusive, of this act or knowingly purchases marijuana from any person not licensed pursuant to sections 1 to 18, inclusive, of this act or to Chapter 453A of NRS. The Department must provide an opportunity for a hearing pursuant to the provision of NRS 233B.121 within a reasonable time from a suspension pursuant to this subsection.*

## Preventing Diversion to Other States - Recommendation

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6. What issue(s) does the recommendation resolve?

- A. *PSA and signage – Informing patrons of marijuana establishments and marijuana consumers that transporting marijuana out of state is unlawful will educate the public with the intent to deter this criminal activity.*
- B. *Partnering with the travel and parcel industry - Educating these businesses will promote the opportunity to communicate effectively to their patrons which will, in turn, potentially reduce unlawful activity. Additionally, this will create a partnership whereas if criminal activity is detected the establishment will have a mechanism in place to report such crimes.*
- C. *Encourage and strengthen interdiction efforts – The data collected during interdiction stops will be able to measure our efforts in promoting marijuana diversion to other states. It will also apprehend violators with a potential impact of disrupting the activities of drug trafficking organizations.*
- D. *Marijuana odor and establishing probable cause – Colorado Supreme Court Case, People v. Zuniga (2016), establishes that the odor of marijuana is relevant to the totality of the circumstances test and can contribute to a probable cause determination. Nevada still has significant criminal penalties for unlawfully possessing large amounts of marijuana and therefore the odor of marijuana is still an element in establishing probable cause. This recommendation promotes the understanding that marijuana remains illegal and in many cases a felony outside the parameters established by Question 2.*
- E. *Criminal and civil penalties for dispensaries – When evidence proves illegal activities by the dispensaries, the state should take action to ensure the violation of regulations identified in Question 2 will not be tolerated.*
- F. *Monitoring impact on other states – Three states that share a border with Nevada have not legalized recreational marijuana: Idaho, Utah, and Arizona. If Nevada is not able to be successful in preventing marijuana diversion to other states, then legislation should be consider to either lower trafficking amount thresholds or increasing criminal penalties in an effort to disrupt future criminal activity.*

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

*None*

## Preventing Diversion to Other States - Recommendation

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8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?
- A. *PSA and signage – There will be no changes to statute, policy, or regulations.*
  - B. *Partnering with the travel and parcel industry – It would be prudent for law enforcement agencies to network and develop relationships with such businesses in their area. However, there should be no changes to statute, policy, or regulations.*
  - C. *Interdiction efforts – Training and strict policy guidelines should be established to ensure interdiction efforts are being conducted properly. No statute or regulation change would be required.*
  - D. *Marijuana odor – There are no changes to statute, policy, or regulations at this time for this recommendation. Since the legalization of marijuana in the United States is relatively new, case law is lacking. The most relevant case, *People v. Zuniga* (Colorado Supreme Court, 2016) supports this recommendation.*
  - E. *Criminal and civil penalties for dispensaries – This recommendation does require the establishment of proper regulation and oversight. We submit that these regulations are being established by the Operations and Retail Establishment Working Group.*
  - F. *Monitoring data – If it is determined that Nevada’s efforts for marijuana diversion to outside states is failing, stricter laws and penalties will require a statutory change.*
9. Additional information (cost of implementation, priority according to the recommendations, etc.).

*The recommendations being submitted have no order of priority. The cost of implementation should be within normal operational budgets by law enforcement agencies.*

## Revenue for Public Safety - Recommendation

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1. Working group name:

*Law Enforcement Working Group*

2. Individual sponsor(s):

*Chuck Callaway, Las Vegas Metro Police Department  
Brian Sooudi, Assistant City Attorney, City of Reno*

3. Describe the recommendation:

*Ballot Question 2 does not clearly designate a dedicated revenue stream for public safety. The language in section 16 reads;*

*Sec. 16. Any tax revenues, fees, or penalties collected pursuant to sections 1 to 18, inclusive, of this act, first must be expended to pay the costs of the Department and of each locality in carrying out sections 1 to 18, inclusive, of this act and the regulations adopted pursuant thereto. The Department shall remit any remaining money to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.*

*Other states that have legalized recreational marijuana have dedicated revenue directly towards public safety and enforcement.*

*The recommendation is that the Department of Taxation **and** each locality be required to develop a plan outlining how the revenue collected from recreational marijuana will be used to carry out sections 1 to 8, with a priority on public safety and enforcement.*

*An **example** of how Oregon has designated their revenue is as follows:*

*Distribution of available moneys in Marijuana Account:*

*(1) There is established Marijuana Account, separate and distinct from the General Fund.*

*(2) At the end of each month, the Department of Taxation shall certify the amount of moneys available for distribution in the Marijuana Account and, after withholding such moneys as it may deem necessary to carry out its obligations, shall within 35 days of the month for which a distribution is made distribute the moneys as follows:*

*Sections (c) and (d) refer directly to public safety;*

*(c) Fifteen percent shall be transferred to the State Police Account;*

*(d) To assist local law enforcement in performing its duties under this Act, ten percent shall be transferred to the cities of the state in the following way...*

## Revenue for Public Safety - Recommendation

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*In Nevada, areas that should be a priority for public safety funding include, but are not limited to;*

- (a) Training of police officers in Drug Recognition and impairment.*
- (b) Increased costs of calls for service/resources related to recreational marijuana enforcement.*
- (c) Retraining and purchase of police drug recognition K-9 animals.*
- (d) Jail Based programs for offenders to reduce recidivism and provide assistance for substance abuse.*
- (e) Purchase of new technology for marijuana enforcement such as field impairment equipment and tracking software for data collection.*
- (f) Additional costs to forensic laboratories for blood and saliva testing, and related equipment.*
- (g) Code enforcement, safety inspections, etc...*
- (h) Hiring of additional personnel to address the black market and illegal marijuana activity.*

4. Which guiding principle(s) does this recommendation support?

*Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities.*

*Guiding Principle 5 - Begin a discussion between the State and local governments regarding the costs of carrying out Question 2.*

5. What provision(s) of Question 2 does this recommendation apply to?

*This recommendation applies to Section 16 of Question 2.*

*Any tax revenue, fees or penalties collected pursuant to section 1 to 18, inclusive, of this act, first must be expended to pay the costs of the Department of each locality in carrying out sections 1 to 18, inclusive, of this act and the regulations adopted pursuant thereto. The Department shall remit any remaining money to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.*

6. What issue(s) does the recommendation resolve?

*Local Law enforcement and public safety are impacted by the legalization of recreational marijuana in two ways.*

*First, there is a need to regulate and enforce the industry regulations and local business licensing requirements that will be enacted. While the Department of Taxation is the primary entity responsible for the enforcement of regulations, complaints, allegations of criminal conduct, and crimes directed at the industry will undoubtedly fall on local law enforcement for investigation.*

## Revenue for Public Safety - Recommendation

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*Second, law enforcement must deal with crimes occurring outside of industry related to recreational marijuana. This includes increase in driving impaired by marijuana users, required training for officers, problems with home grow operations, possible increase in black market activity, public consumption, robbery and burglary of businesses, increased homelessness, change of practices and procedures for detention centers, increase on crime labs, etc...*

*These impacts will require additional police resources, investigators, training requirements, purchase of certain equipment. The complete scope of the impact is currently unknown.*

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

*None at this time*

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

*This recommendation could be codified in law by the Nevada Legislature, outlined in the Department of Taxation regulation process, and/or directed to local government by action of the Governor's Office.*

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

*Local government could claim a potential cost associated to the allocation of resources to develop a revenue plan for public safety.*