

Q. The Board described Simpson as having no prior criminal record, however, California court records show he pleaded no contest in 1989 to misdemeanor spousal abuse in California and also received probation. If this conviction had been known to the Parole Board would it have changed the hearing or its outcome?

A. After an offender pleads or is found guilty of a felony, the State of Nevada prepares a Pre-Sentence Investigation (PSI) that is used by the Court to determine the appropriate sentence to impose¹. If the offender is sentenced to serve a prison sentence, the PSI is then used by the Nevada Department of Corrections (NDOC) and the Board of Parole Commissioners (Parole Board) for classification and parole release consideration. The PSI is an official document which includes the criminal history of the offender.

The Nevada Division of Parole and Probation (P&P) prepares PSI reports in part, by pulling a criminal history report from the National Crime Information Center (NCIC). NCIC is an electronic clearinghouse of crime data maintained by the FBI.

The 1989 California Court record did not appear in the NCIC history when the PSI was prepared in the Nevada case. In an effort to determine whether an error was made, a second criminal history report from NCIC was pulled on July 31, 2017. This most recent report also makes no mention of the 1989 California court record.

P&P reached out to California authorities in an attempt to clarify the question and resolve any potential discrepancies. As of the date of this answer, no response was received from California.

The fact that the California court record does not appear in NCIC does not necessarily mean that an error was made. Jurisdictions across the country have procedures and laws that are different from each other and the manner in which courts and law enforcement respond to criminal offenses may be different.

Some jurisdictions employ systems of deferments which, once court requirements are satisfied, the conviction is set aside, or adjudication withheld. Instances such as these would not be considered convictions for the purpose of evaluating criminal history.

Some jurisdictions have processes that allow for a conviction to be withdrawn or sealed. If such an event occurs, these withdrawn or sealed convictions would not be considered convictions for the purpose of evaluating criminal history².

In this 1989 Simpson case, the actual final disposition is not available to Nevada to evaluate, and therefore, we must assume that it is not a conviction for the purpose of criminal history.

Had the 1989 court information been present in NCIC, it would have been noted in the PSI and, provided it had not been sealed, would have been considered by the Parole Board at the 2013 and 2017 parole hearings. It is unknown whether it would have produced a different outcome.

¹ PSI's may be waived in certain circumstances.

² A jurisdiction may permit the "unsealing" of sealed records for evaluation when certain conditions exist.