

NEW MEXICO SENTENCING COMMISSION

August 25, 2015 MINUTES

State Bar Center
5121 Masthead NE
Albuquerque, NM
10:00 AM

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Bob Cleavall, Vice Chair	Marron Lee, Chair	Jim Brewster	Tony Ortiz
Martin Suazo	Sec. Hanna Skandera	Douglas Carver	Linda Freeman
Ben Bauer, (for Jorge Alvarado, Chief Public Defender)	Sheriff Louis Burkhard		Amir Chapel
Amy Orlando	Hon Jerry Ritter		Amanda Armstrong
Artie Pepin	Frank Zubia		
Dave Sidhu	Hon. Joel Garnett		
David Schmidt	Michael Heitz, (for Monique Jacobson, CYFD Secretary)		
Clint Wellborn, DA	John Wheeler, (for AG Hector Balderas)		
Cindy Aragon			
Jim White			
Gail Armstrong			
Regina Chacon, (for Greg Fouratt, DPS Secretary)			
Gregg Marcantel, NMCD Secretary			
Hon. Michael Vigil, (COA)			
Michael Lilley			

Welcome. Bob Cleavall, Vice Chair, called the meeting to order at 10:05 a.m. He welcomed Commission members, staff, and guests. Mr. Cleavall noted the presence of newly-appointed members (Jim White, Gail Armstrong and Dave Sidhu) and asked them to introduce themselves to the other Commission members. Jim and Gail were appointed by Speaker Don Tripp. Dave was appointed by the Co-Deans of the UNM

Law School. Also, Amanda Armstrong, newly-hired Business Manager, introduced herself to the Commission members.

Approval of minutes. The minutes for the May 13, 2015 meeting were approved by consensus.

Staff report.

--FY 2017 appropriation request. The NM Sentencing Commission will request a flat budget (\$608.2) in FY 2017. A motion to approve the appropriation request was adopted.

--FY 2017 strategic plan. An electronic copy of the FY 2017 strategic plan was provided to Commission members prior to the meeting. A motion to approve the strategic plan was adopted.

--FY 2016 resolution regarding notice of public meetings. An electronic copy of the resolution was provided to Commission members prior to the meeting. A motion to approve the resolution was adopted.

--Attorney General's Multidisciplinary Violent Crime Review Team. NMSC staff will serve on the review team. The Attorney General's Office has initiated this process in the aftermath of the death of Rio Rancho law enforcement officer Gregg Nigel Benner. The initial meeting was held on August 5, 2015. The review team will identify and evaluate weaknesses in the criminal justice system, particularly focusing on information sharing and service gaps. It is anticipated that a report, with findings and recommendations, will be published in early 2016. During the ensuing discussion, the following topics were noted:

--the Administrative Office of the Courts plans to hire staff to compile criminal histories for judges throughout the state. Sufficient staff will be hired to provide this service round the clock.

--the Consolidated Offender Query (COQ), now housed at the Department of Public Safety, will be used to provide some of the information needed for the production of the criminal histories. Software and hardware for the COQ is antiquated and the department has requested funds for the improved operation of the COQ.

--Research:

1) the NMSC's annual prison population forecast was published in July 2015 and has been provided to the New Mexico Corrections Department, Commission members, staff at the Department of Finance and Administration and the Legislative Finance

Committee, and other policy makers. The analysis was presented to the legislative Courts, Corrections and Justice Committee on August 11, 2015.

2) the annual resource needs assessment for the Judiciary, District Attorneys and Public Defender Department has been completed. The assessment has been provided to those entities, Commission members, and staff at the Legislative Finance Committee and Department of Finance and Administration. During the ensuing discussion, it was noted that the Judiciary's unified budget will include a request for an additional district court judge in the Fifth Judicial District.

3) pursuant to the provisions of the County Detention Facility Reimbursement Act, NMSC staff is reviewing data in surveys submitted by county detention facilities. When the review process is finalized, information gleaned from the surveys will be provided to the Department of Finance and Administration.

4) NMSC staff is finalizing work on evaluations and recidivism studies for the PB&J Fathers Building Futures program, the Crossroads for Women program, and the Men's and Women's Recovery Academies. These studies will be presented to the legislative Courts, Corrections and Justice Committee on September 22, 2015.

5) NMSC staff is working with CYFD, the UNM Law School and the UNM School of Medicine on the prevalence of adverse childhood experiences experienced by youth committed to secure detention facilities in New Mexico. One goal of this study is to provide a greater understanding to New Mexico's juvenile justice stakeholders about the rates of trauma and victimization experienced by juvenile offenders. It is hoped that the research may also help identify prevention strategies that will improve outcomes for youth. This study should be completed by years end.

Report from the Justice Information Sharing Council. Regina Chacon, JISC Chair, briefed the Commission members. The TRaCs system is being implemented in new Mexico and will provide for the transmittal of electronic citations from law enforcement agencies to the courts. To support this effort, the Administrative Office of the Courts is adding fields to the Charge Code Table so that county and municipal offenses can be included in the table.

Also, the JISC continues to gather information on how to improve the provision of electronic dispositions for criminal cases to the Department of Public Safety. This is a long-term project for the JISC members.

Report from the Juvenile Committee. Bob Cleavall, Juvenile Committee Chair, briefed the Commission members. During a meeting in June the Juvenile Committee was briefed by Judge John Romero, presiding Children's Court judge in the 2nd Judicial District. Judge Romero presented a power point regarding domestic child sex

trafficking. He noted the provisions of applicable federal laws and stressed that child sex trafficking is a prevalent commercial activity in America. Children involved in this activity are victims, not prostitutes. Experts suggest that there are 100,000 children who are victims of child sex trafficking in the USA and that another 325,000 children are at risk of becoming victims.

The Juvenile Committee also met with representatives from the NM Supreme Court, the Children, Youth and Families Department and the NM Association of Counties. Those entities have entered into a Memorandum of Understanding to establish the juvenile detention alternatives initiative (JDAI) on a statewide basis. It was stressed that this will be a long-term, incremental effort that will begin with juvenile justice professionals in San Juan county. Also, collaboration with the Juvenile Justice Advisory Committee will be important, as the JJAC reviews grant applications from counties and makes recommendations to the CYFD Secretary regarding funding of programs that serve as alternatives to detention of youth.

Report from the Sex Offender Management Board. Tony Ortiz, Acting Chair for the SOMB, briefed the Commission members. On July 27th, he met with Lou C de Baca and Lori McPherson of the federal Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) Office. Mr. C de Baca was recently appointed as the Director of the SMART Office and was touring New Mexico to meet with officials who work on sex offender issues. Ms. McPherson is a Senior Policy Advisor for the SMART Office and has worked with officials in New Mexico for several years. Mr. C de Baca advised that they would also schedule meetings with the New Mexico Department of Public Safety, the New Mexico Attorney General's Office and several tribes and pueblos in New Mexico.

The SOMB heard from law enforcement regarding the roles and responsibilities of County Sheriffs and the Department of Public Safety concerning registration of sex offenders. Detective Glenn Metzger, Bernalillo County Sheriffs Office, and Regina Chacon, Department of Public Safety (DPS). led the discussion. Teresa Hernandez (DPS) also briefed the members. Issues discussed included the following: use of the Offender Watch web site to monitor sex offenders; issues raised when an offender absconds, including the issue of "good years" versus "actual years"; the reluctance of some prosecutors to file charges when an offender absconds; differing registration requirements for offenders, based upon the enactment of amendments to the Sex Offender Registration and Notification Act (SORNA); what it means for an offender to establish a residence; and provision of notice regarding registration requirements.

Next, the SOMB members were briefed on the inclusion of standards in contracts between the NM Corrections Department and individuals who provide treatment to sex offenders. In February of this year, requests for proposal (RFP's) were published by the

NMCD for all treatment services. The RFP's for treatment services for sex offenders included an expanded scope of work that addressed standards for treatment providers. The RFP's address treatment provided at in-patient programs, out-patient programs and transitional living settings.

Finally, representatives for District Attorneys, the Attorney General's Office and the Law Offices of the Public Defender discussed the topic of "units of prosecution" in child pornography possession cases. The NM Supreme Court, in *State v. Ollson/Ballard* 324 P. 3d 1230 (2014), held that the state statute does not clearly define how many crimes a person commits when they possess multiple images of child pornography. Consequently, single charges are filed when an offender possesses multiple images of pornography. During the 2015 legislative session, a committee substitute for House Bills 251 and 440 sought to amend the child pornography statute. However, the bill did not pass both chambers. There was a discussion regarding criteria that may be considered in future discussions regarding revisions to the state statute, including: the age of the victim; the nature of the images; instances when there are multiple victims; and sentencing enhancements, including imposition of mandatory minimum sentences.

Public comment. Douglas Carver, staff attorney for the legislative Courts, Corrections and Justice (CCJ) Committee, told the members that NMSC staff regularly appears before the legislative committee and provides valuable information and research to the CCJ Committee.

Schedule next meeting. The next meeting will be held on December 9, 2015, at 10.00 a.m.

Adjourn. The meeting adjourned at 12.10 p.m.