

# NEW MEXICO SENTENCING COMMISSION

August 17, 2016 MINUTES

Nusenda Credit Union  
4100 Pan American Highway  
Albuquerque, NM  
10:00 AM

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Bob Cleavall, Vice Chair	Marron Lee	Theresa Rogers, LFC	Linda Freeman
Amy Orlando (on phone)	Hon. Michael Vigil, (COA)	Jason Rael, LOPD	Tony Ortiz
Martin Suazo	Artie Pepin		Amir Chapel
Anjennette Torrez, (for PED Sec. Hanna Skandera)	Hon. Jerry Ritter		Amanda Armstrong
Anne Kelly, (for AG Hector Balderas)	David Schmidt		
Cindy Aragon	Hon. Joel Garnett		
Robert Mead, (for Chief Public Defender Ben Bauer)	Clint Wellborn		
Jim White	Dave Sidhu		
Gail Armstrong	Frank Zubia		
Michael Heitz, (for CYFD Secretary Monique Jacobson)	NMCD Secretary Secretary Gregg Marcantel		
Michael Lilley			

**Welcome.** Bob Cleavall, Vice Chair, welcomed members and guests to the meeting. He asked members, guests and staff to introduce themselves.

**Approval of minutes.** The minutes for the April 27, 2016 meeting, with two minor edits, were approved by consensus.

**Staff report.**

**FY 2018 appropriation request.** The NM Sentencing Commission will submit an appropriation request for \$585,100 in FY 2018. A motion to approve the appropriation

request in that amount was adopted. NMSC staff will present the appropriation request to the Legislative Finance Committee in October.

**FY 2018 strategic plan.** An electronic copy of the FY 2018 strategic plan was provided to Commission members prior to the meeting. A motion to approve the strategic plan was adopted.

**FY 2017 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.

**NMSC Research Projects.** Staff summarized work on the following research projects:

**Prison population forecast.** This report was published in July 2016 and has been transmitted to the NM Corrections Department, Sentencing Commission members, staff at the Department of Finance and Administration and the Legislative Finance Committee, and other policy makers. The forecast will be presented to the legislative Courts, Corrections and Justice committee later this summer.

**Resource needs assessment for the Judiciary, District Attorneys and Law Offices of the Public Defender.** The annual resource needs assessment will soon be completed. Upon completion, the assessment will be provided to the Administrative Office of the Courts, the Administrative Office of the District Attorneys, the Law Offices of the Public Defender, Sentencing Commission members, and staff at the Legislative Finance Committee and Department of Finance and Administration. This is the final year that the resource needs assessment will be produced by Sentencing Commission staff, as it has been ten years since the original workload study was performed.

**County Detention Facility Reimbursement Act.** Staff is collecting surveys submitted by counties and validating the information in the surveys. Prior to December 1<sup>st</sup>, Sentencing Commission staff will provide information to the local government division of DFA that informs the distribution of funds to eligible counties.

**Updated study regarding length of stay in county detention facilities.** Sentencing Commission staff is currently working on a third generation study that analyzes length of stay in county jails. The previous two studies have been very useful to county and state officials throughout the state.

**Report from the Justice Information Sharing Council.** Amir Chapel briefed the Commission members on behalf of Regina Chacon. Mr. Chapel noted that the Justice Information Sharing Council (JISC) has been a forum for discussion and work related to the Department of Public Safety's development of a criminal records database and subsequent provision of criminal history information to the Judiciary and law

enforcement agencies. Ms. Chacon and her team at the Department of Public Safety (DPS) are shepherding this project through the Department of Information Technology (DoIT). Once the project receives a green light from DoIT, funding for the project will be released. The DPS team has been meeting with representatives from the Judiciary and criminal justice agencies to initiate planning for data sharing. The administrative aspect of this project involves hiring employees, purchasing equipment and supplies, and securing office space for the employees. DPS has begun interviewing potential employees. The DPS team will schedule a meeting with CYFD officials to ensure that juvenile information in the clearinghouse is in compliance with confidentiality standards in the NM Children's Code. DPS plans to initiate a pilot program in early October 2016. The Bernalillo county Metropolitan Court and the 2<sup>nd</sup> Judicial District Court will not be included in the initial roll-out of this project, as both those courts already have staff who are dedicated to producing criminal history reports for arrestees. Finally, DPS is aware that this is a multi-faceted project and will be an ongoing, evolving effort.

**Report from the Juvenile Committee.** Bob Cleavall, Juvenile Committee Chair, briefed the Commission members. He noted that on August 18<sup>th</sup>, he will join Gail Armstrong and NMSC staff for a meeting with officials from the Council of State Governments (CSG). The CSG officials are meeting with juvenile justice stakeholders to determine if New Mexico is interested in working with the CSG on a statewide juvenile justice improvement initiative.

Chairman Cleavall then summarized a presentation by CYFD Secretary Monique Jacobson at the most recent Juvenile Committee meeting, regarding the PullTogether Initiative. The initiative is intended to make it easier for New Mexican families to access resources available in their communities. The initiative also serves as a resource for New Mexicans who want to help in their communities, by fostering or adopting a child, donating a backpack to a child in need, or reporting child neglect or abuse. The web site address for the initiative is [pulltogether.org](http://pulltogether.org). This effort will serve as a hub for families who are seeking resources throughout the state, including low-cost child care, no-cost or low-cost activities for families and children, and substance abuse or mental health treatment services. Currently, only one-third of families eligible for low-cost child care assistance apply for the assistance. This initiative is intended to make it easier for CYFD and community leaders to work together on behalf of families and children in New Mexico. Finally, the Juvenile Committee members agreed that the NM Sentencing Commission web site should have a link on its home page to the PullTogether web site.

During the remainder of the 2016 interim, the Juvenile Committee will focus on the work of the Bernalillo county task force regarding heroin and opioids, early childhood issues and programs, and will review and discuss juvenile justice-related legislative proposals likely to be introduced in 2017.

**Report from the Sex Offender Management Board.** Tony Ortiz, Acting Chair for the SOMB, addressed the Commission members. The SOMB has been invited to brief the legislative Courts, Corrections and Justice committee on the work of the board. The meeting is scheduled for August 18<sup>th</sup>, at the University of New Mexico. Tony Ortiz will invite two other SOMB members to join him for this meeting.

During the most recent SOMB meeting, the board heard from Anthony Maez, Special Agent in Charge for the Internet Crimes Against Children Task Force, NM Attorney General's Office. There are 61 similar task forces across the country. The Internet Crimes Against Children (ICAC) Task Force in New Mexico currently has a membership of 85 law enforcement officers. The New Mexico Attorney General's Office has a computer lab that is designed to provide forensic analysis to law enforcement agencies working ICAC cases. ICAC task force members also provide internet crime prevention training at schools, colleges and community gatherings throughout the state. Mr. Maez noted that while the Senate Finance Committee amendment to HB 65 provided an exception for consensual "sexting" that occurs between certain youth, such behavior remains illegal under the provisions of federal law. Unfortunately, youth are now under the impression that they cannot be charged for being in possession of child pornography. ICAC members will continue to provide training and education on the current law, both state and federal. ICAC receives funding from the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) and a significant portion of that money passes through the Attorney General's Office to law enforcement agencies throughout the state. It is too soon to know if that federal funding will be jeopardized by the enactment of the exception for consensual sexting by youth.

New Jersey, Texas, Vermont and West Virginia have recently enacted laws to provide for mandatory educational programs, rather than prosecutions, for youth who engage in consensual sexting with another youth. Other states have downgraded the sanction from a felony to a misdemeanor. These possible alternatives will be discussed with the legislative Courts, Corrections and Justice Committee on August 18<sup>th</sup>.

**Public comment.** There was no public comment.

**Schedule next meeting.** The next NM Sentencing Commission meeting will be held in Albuquerque on December 7, 2016, at 10.00 a.m.

**Adjourn.** The meeting adjourned at 11.20 a.m.