



**Minutes of the Meeting of the  
New Mexico Sentencing Commission  
10:00 a.m.  
March 31, 2022**

via Zoom

<b>Members Present</b>	<b>Members Absent</b>	<b>Others Attending</b>	<b>NMSC Staff Present</b>
Bob Cleavall, Acting Chair	Hon. Daniel A. Bryant (DMCJA)	Kim Chavez Cook (LOPD)	Linda Freeman
Marit Andrews (for PED)	Sheriff Mark Cage (House Minority)	Tamar Ginossar (UNM ISR)	Amanda Armstrong
Cindy Aragon (State Bar)	Claire Harwell (Governor)	Ellen Rabin (LFC)	Douglas Carver
Bennett Baur (LOPD)	Anita Mesa (BHSD)	Diego Jimenez (DFA)	Jamey Cook
Jason Bowie (DPS)	Martin Suazo (Pro Tem)	Cisco McSorley (Parole Board)	Derek Chin
Hon. John Chavez (NM SCt)	Hon. Fred T. Van Soelen (DMCJA)	Samuel Taub (UNM SOL)	Nancy Shane
Jason Clack (AOC) (NM SCt)	Clint Wellborn (NMDAA)	Dennica Torres (LOPD)	Keri Thiel
Megan Dorsey (Speaker)	Jeff Young (CYFD)	Misty Schuck (Burt & Company)	
Sheriff Glenn Hamilton (NM Counties)		Theresa Windsor (Burt & Company)	
Brady Horn (NM SCt)			
Anne Kelly (AGO)			
April Land (UNMSOL)			
Michael Lilley (Pro Tem)			
Melanie Martinez (NMCD)			
Angela "Spence" Pacheco (Speaker)			
David Schmidt (Pro Tem)			
Ron West (Senate Minority)			

**I. Welcome and Introductions.** The meeting was called to order at 10:02 a.m. Acting Chair Bob Cleavall welcomed members, guests, and staff to the meeting.

**II. Approval of minutes for the December 2, 2021 meeting.** The minutes of the meeting were approved by unanimous vote.

### **III. Staff Report.**

Linda Freeman, Executive Director, New Mexico Sentencing Commission (NMSC), informed the Commission that Commission staff was working with New Mexico Counties on a census of detention centers. In addition, Nancy Shane, NMSC Research Director, is working with other NMSC staff on a length of stay study in county detention centers. These are both labor-intensive reports. Research Director Shane and the research staff is also working on the evaluation for the Re-Route (LEAD) diversion program in Rio Arriba County.

Commission staff is also continuing the work on data integration in conjunction with New Mexico Tech. As part of that effort, a memorandum of understanding has been signed with the First Judicial District. The MOU is to begin to understand how a Judicial District might utilize the DataXchange information and engage local detention centers, especially looking at following the state identification number throughout the system.

Executive Director Freeman and Deputy Director Douglas Carver will be attending the task force established by Senate Memorial 6 and House Memorial 11 looking at the pros and cons of having a unified jail and prison system.

Finally, Executive Director Freeman informed the Commission that the National Association of Sentencing Commissions' annual conference will take place during the first week of August in Portland, OR. Members should let her or Deputy Director Carver know if they would like to attend.

Deputy Director Carver informed the Commission that Nina Safier was no longer with the Commission as she had been appointed as a judge.

### **IV. FY21 Commission Audit Report.**

Misty Schuck and Theresa Windsor of Burt & Company presented the FY21 Commission Audit Report. Executive Director Freeman noted that Acting Chair Cleavall attended the audit exit conference in his role as Vice Chair of the Commission.

Ms. Schuck informed the Commission that the state requires this audit presentation to the Commission. The report covers Commission activity through the end of the fiscal year that ended June 30, 2021. The Commission continued to get an "unmodified" audit report, the best that an agency can get. There were no issues at the financial statement level. She then went through the financial highlights, the financial statement and net position, covering assets and liabilities; the statement of activities, noting a reversion of \$169,000; the governmental fund balance sheet; the statement of revenues, expenses, and fund balance; the notes to financial statements; and the schedule of operating transfers.

She then moved on to the report on internal controls, which notes any "material weaknesses" or "significant deficiencies" – what are known as the "findings". This year's audit had three findings. The first concerned the reconciliation of financial accounting records, a repeat of a finding from the past two fiscal years; this finding concerned reporting adjustments timely to financial statements. The Commission response to this

finding was that an additional accountant had been hired to help with these functions and make them timely; this issue is expected to be resolved for the present fiscal year. The second finding concerned controls over payroll, focusing on challenges to expensing out certain expenses to be approved by the Executive Director. The Commission response to this finding was that the Executive Director always reviewed these expenses, but that going forward the distribution of labor will be explicitly approved by the Executive Director. The third finding involved reversions being done in an untimely manner; they need to be done by September 30. The Commission's response to this finding was that the hiring of the additional accountant should alleviate this problem.

Ms. Windsor noted that the Commission staff were pleasant to work with and quite helpful.

Upon a motion by Judge John Chavez, seconded by April Land of the University of New Mexico School of Law, the Commission unanimously accepted the audit report.

## **V. Update on Legislative Session.**

Deputy Director Carver informed the Commission that the bill creating a separate fund for the crime reduction grants was never introduced by the sponsor; the bill concerning medical and geriatric parole never received a message from the Governor; and the bill concerning adult fines and fees ran into unexpected obstacles during the legislative process, and ended up dying on the Senate side.

He also informed the Commission that amendments to the Crime Reduction Grant Act had been included in the combined criminal justice package that passed at the end of the Legislative Session. The changes expanded the purposes for which grants could be made, including: developing or improving coordination of services between law enforcement agencies and treatment programs; establishing law enforcement intervention teams; coordinating access to programs for transitional or reentry homes for individuals recently released from incarceration; recruiting or retaining law enforcement officers, prosecutors, public defenders, corrections officers, and mental health workers; developing or expanding data-driven policing programs and pretrial services; and staffing criminal justice coordinating councils.

The Legislature also passed the Violence Intervention Program Act. Although the VIP is under the Department of Health, the Commission is required to provide data when requested under the Act, and grantees are to report to the Commission as well as DOH. The Commission will then report in conjunction with DOH to the Legislature.

In addition, as mentioned in the Staff Report, the Legislature passed Senate Memorial 6 and House Memorial 11, which established a task force to examine the pros and cons of having a unified jail and prison system. The task force will meet under the aegis of New Mexico Counties. While the Commission was not named to this task force by either memorial, the Commission was asked to participate in the task force's deliberations.

Deputy Director Carver finished his summary by briefly listing the various changes to criminal statutes that had been passed during the Legislative Session.

## **VI. Report from the Legislative Committee.**

Deputy Director Carver gave an overview of the work of the committee during the Legislative Session. He informed the Commission that the committee reviewed 37 House bills, one House Joint Resolution, four House Memorials, 16 Senate bills, and four Senate Memorials. He noted that the committee had its usual

vigorous and informative discussions. He also noted that there were fewer bills than the committee had expected, given the many discussions of criminal justice legislation that had preceded the Legislative Session.

### **VII. Report from the Grants Committee.**

Executive Director Freeman informed the Commission that the funds for the crime reduction grants had been increased during the Legislative Session. The base fund was increased by \$150,000, for a total of \$328,000; on top of this there was a special appropriation of two million dollars, tied to the expanded purposes of the Crime Reduction Grant Act passing. With the increased funding, the Grants Committee will be looking to distribute \$2,328,000 in total, a vast increase from prior years. Emails will be sent to the Chief Justice, the Law Offices of the Public Defender, the Association of District Attorneys, and other entities to make them aware of this increased funding. She noted that she has met with the Legislative Finance Committee as this is a large amount to try to disburse in one year, and have been informed that the Commission could ask for an extension. The goal, however, is to expend the funds this year, and to spread the monies as widely as possible. She encouraged any Commissioners who have a connection to a Criminal Justice Coordinating Council to inform that CJCC to help to spread the word. The hope is that a good effort this year will see sustained funding for the grants at high levels. The highest priority for grants this year will be applications asking for monies for programs that were not funded in the budget. Applications for the grants will go live April 1, with a closing date of June 1<sup>st</sup>. The committee will meet on June 8 to review the applications.

### **VIII. Report from the Justice Information Sharing Council.**

Executive Director Freeman informed the Commission that JISC had met a couple of weeks before and had a demonstration of the DataXchange. She let the Commission know that a new project manager was coming on to oversee the DataXchange project. JISC will be looking at governance matters for the DataXchange, which is of increased importance as more and more entities join the platform.

### **IX. Report from the Juvenile Committee.**

Acting Chair Cleavall, Chair of the committee, gave a report to the Commission. He gave the Commission the following statement:

Over the years, the Juvenile Committee has brought in several inpatient and outpatient treatment programs for presentations. Several of our last meetings we have heard from the Juvenile Justice Advisory Councils, AMIkids, Juvenile Community Corrections, and the Administrative Office of the Courts Specialty Courts. One thing they all have in common with all these programs and others we have talked to is the continued ongoing trend of not receiving referrals for the needy and at risk kids and families they treat. All the presentations reflect a difficulty of sustaining their programs. State funded programs through JJAC are reverting most of the funds. The AOC Specialty Courts have either closed or are operating with limited client participation. AMI brought in a new team to operate their residential programming in Cuba and Farmington where it was last reported no kids in Cuba and just a few in San Juan County. Their stories are the same. Also, our committee has been discussing the closing of County Juvenile Detention Centers throughout the state. Twenty years ago or so there were 18 operating, now there are four. The Children, Youth, and Families Department approved juvenile holds, but either there are no beds or contracts in place for law enforcement or if a bed is secured then there are transportation issues for law enforcement, families, and kids sitting in the back of cars for hours.

At the Juvenile Committee meeting in April I have asked NMSC member Sheriff Hamilton to reach out to police and Sheriffs to see what they are thinking. And I have asked a CYFD Regional Administrator to do a snapshot of three of her judicial districts and report on referrals received over the past 5-10-15 years.

Many of our programs receive referrals from Juvenile Probation Officers who at the Preliminary Inquiry divert the client for informal programming. The Courts refer to these programs as well. Typically these clients start with a delinquent report from law enforcement. With these reports declining each year, dating 15 years or so, this is part of the problem. And the problem is needy and at risk kids and families falling through the cracks and not getting services they could use. Hospital Programs like ADOBE and County programs that provide family and substance abuse counseling are suffering as well.

In upcoming meetings I'll follow up on this. Anyone interested in being present at our next meeting on April 27th let Doug or me know.

#### **X. Report from the Sex Offender Management Board.**

Deputy Director Carver informed the Commission that he is in the process of drafting a new bill that would shift the responsibilities of the SOMB from the Commission.

#### **XI. Report from the Reform and Criminal Code Update Committees**

Spence Pacheco, Chair of the Reform Committee and the Criminal Code Update Committee, informed the Commission that she intended to combine the work of these two committees. The upcoming joint meeting will finalize the work groups for the committees, where the principal work of the committees is done.

#### **XII. Report from the Criminal Code Update Committee**

This report was combined with the Reform Committee report

#### **XIII. Public Comment.**

There was no public comment offered.

#### **XIV. Next Meeting.**

The committee scheduled its next meeting for June 16, 2022.

#### **XV. Adjourn.**

The meeting adjourned at 11:29 a.m.