



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m., November 9, 2023**

Children, Youth, and Families Complex, Indian School Rd., Albuquerque

| Members Present | Members Absent | Others Attending | NMSC Staff Present |
|--|---------------------------------------|-------------------------------------|---------------------------|
| Bob Cleavall, Chair (Governor) | Sheriff Mark Cage (House Minority) | Melanie Martinez (NMCD) | Linda Freeman |
| Martin Suazo, Vice Chair (Pro Tem) | Hon. John Chavez (NM SCt) | Scott Sanchez (LFC) | Amanda Armstrong |
| Cindy Aragon (State Bar) | Gregory Gaudette (Senate Minority) | Mark Velarde (CYFD) | Douglas Carver |
| Jason Bowie (DPS) | Claire Harwell (Governor) | Corey Adams (CYFD) | Angelica Gurule |
| Hon. Daniel A. Bryant (DMCJA) | Ramona Martinez (Pro Tem) | Megan Dorsey | Jeremey Seymour |
| Teresa Casados (CYFD) | Angela “Spence” Pacheco (Speaker) | Sam Bregman (2 nd DA) | Nancy Shane |
| Jason Clack (AOC) | Sheriff Mike Reeves (NM Counties) | Len Engel (CJI) | Keri Thiel |
| Mark Donatelli (Speaker) | Dr. Arsenio Romero (PED) | Dondre’ Jefferson (CJI) | |
| Brady Horn (NM SCt) | | Shannon Streisel (CJI) | |
| April Land (UNMSOL) | | Jessie Halladay (CJI) | |
| Anita Mesa (BHSD) | | | |
| Hon. R. David Pederson | | | |
| Greer Staley (AGO) | | | |
| Philip Larragoite, designee for Bennett Bauer (LOPD) | | | |
| Alisha Tafoya Lucero (NMCD) | | | |
| Clint Wellborn (NMDAA) | | | |
| Sydney West (Pro Tem) | | | |

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

II. Approval of minutes for the September 13, 2023 meeting. The minutes of the meeting were approved by unanimous vote.

III. Staff Report.

Linda Freeman, Executive Director, New Mexico Sentencing Commission (NMSC), directed the Commission's attention to a handout that had been provided in the meeting materials that framed the Commission's work as they corresponded to the goals of the Strategic Plan. Highlights included NMSC Deputy Director Douglas Carver presenting to the interim Courts, Corrections and Justice Committee on probation and parole in September; Executive Director Freeman and Deputy Director Carver presenting the NMSC budget to the Legislative Finance Committee in October; the completion of the revised crime categorization/charge code project and crime hierarchy; work being done on the Prison Population Profile, the Earned Meritorious Deduction report, and the County Detention Facility Reimbursement report; the imminent publication of a review of Peer Support Literature; the poster presentation at the upcoming American Society of Criminology Conference; a presentation to the New Mexico Counties Detention Affiliate regarding the dataXchange and resources available to get county detention centers on the platform; an update on Round 2 of crime reduction grants; and the pending first evaluation of crime reduction grants.

Deputy Director Carver also noted, in response to a question, that the only bill that would be sponsored by the Commission in the upcoming Legislative Session was the Juvenile Committee's bill concerning the Juvenile Community Corrections Grant Fund.

IV. Update on the Children, Youth and Families Department.

Teresa Casados, Secretary, Children, Youth and Families Department (CYFD) gave an update on the department to the Commission. She informed the Commission that she had created a Tiger Team in February to look at the changes that were needed at CYFD, an effort that started when she was in the Governor's Office, but that continued when she was placed in charge of CYFD.

She started with a focus on Protective Services, and brought in some new staff, including Chair Cleavall. The focus was to peel back what CYFD was doing and how they did it. The focus now is on pillars, so that people have a defined role in the communities they serve. Administrative work, such as finance, billing, hiring, and the like, was consolidated into support services, so now Protective Services staff is able to better focus on their mission of helping families and children.

Efforts are now focused on Juvenile Justice, which has been kickstarted with the Governor's Public Health Order on children and guns. Secretary Casados stressed the need for all entities of CYFD and the state to work together so that more kids and families have the services they need to be successful.

Secretary Casados then discussed the Family Services Division that she has established, which has a focus on food insecurity, housing, and similar needs. These are the stressors that lead to other issues with juveniles and their families. The hope is that if these basic needs are taken care of, other divisions of CYFD will have fewer clients.

She also stressed the support needed when there is a youth found carrying a firearm, which is the reason for the order to override scores for youth with a firearm. It was eye-opening, she said, when a juvenile scores a 3, when a 12 is needed to detain, but the child had a firearm on school grounds. The hope is to hold these

children accountable, but also to get them into programming. When services need to be provided, that is what needs to happen – it cannot just be a default to detention. Services, however, are scarce on the ground. Her goal is to provide services differently – those who need more enhanced services will get them.

She concluded her remarks by noting that the level of crime committed by juveniles in New Mexico was astounding. What is needed for kids is that they get to adulthood safely and be set up for success as adults.

Members of the Commission asked questions about and discussed independent oversight for CYFD (Secretary Casados informed the Commission that she was not opposed to independent oversight in principle, but she was opposed to anything that was too intrusive or punitive, and hoped that any oversight legislation could be considered in the 2025 Legislative Session, by which time there would be enough time to see whether the department was moving in a positive direction); whether there would be any CYFD legislation introduced by the Governor in the 2024 Legislative Session; how the department was handling Indian Child Welfare Act and Indian Family Protection Act cases (Secretary Casados informed the Commission that she has discussed cultural sensitivity issues with staff, that she had an office focused on ICWA and IFPA, has been looking at licensing regulations for tribal families, that agreements were being negotiated with the tribes, pueblos, and nations of the state, and that she and all of CYFD were sensitive to the requirements of the *Kevin S.* settlement); the prevalence of juveniles who carried firearms, and the threat that poses to Juvenile Probation Officers and other members of CYFD staff.

V. Organized Crime Commission.

Sam Bregman, District Attorney, Second Judicial District, discussed the efforts being made to reinvigorate the Organized Crime Commission. He began his comments by noting that 16 juveniles had been charged with first degree murder since he took office. He informed the Commission that the Governor had appointed him, NMSC Commissioner Secretary Jason Bowie, and others to the Organized Crime Commission (OCC), which has been in statute since the 1970s but had not been a focus of state policy in recent years. When the OCC was created, the concern was mob infiltration in the state. In the 1990s, the OCC faded away. The Governor has recognized that much of the crime in the state today is driven by organized crime, especially cartels. The focus of this crime is both drugs, especially fentanyl, and human trafficking. As a border state and as Albuquerque sits at the intersection of two major interstates, I-25 and I-40, this is a huge problem for the state, and Bernalillo County in particular.

The OCC will ensure that the various state agencies who are working to combat these problems are talking to each other and working together. The issues that will be the focus of the OCC include drug trafficking, human trafficking, gun smuggling, and organized retail crime. An ask will be made to the Legislature to fund the Commission. The OCC will be examining how good state agencies' intelligence is, how to make it better, and how to better work with the Federal government on these issues. The existing statutes give the OCC a lot of authority to go after organized crime, but there are many challenges. He stressed that it is believed that the cartels make anywhere from \$40 to 100 million dollars a month smuggling human beings, with people being put up for labor and sex trafficking. There were many stash houses in Albuquerque, from which people are sent all over the country.

Members of the Commission asked questions about and discussed whether it was anticipated that there would be any legislation concerning the OCC in the 2024 Legislative Session; whether any changes were required to the OCC statutes; and how cases concerning organized retail crime were moving through the system.

VI. Update on Justice Reinvestment Initiative.

Jessie Halladay, Senior Policy Analyst, Crime and Justice Institute (CJI), gave the Commission an update on the pending justice reinvestment initiative. The Governor, the Chief Justice of the Supreme Court, the Speaker of the House, and the Senate Pro Tem had all signed the letter requesting that CJI be invited to the state for justice reinvestment work, work which will be organized with the help of the Commission. CJI was now in the process of system assessment, gathering data on Corrections, the Courts, and other agencies connected to the criminal justice system. CJI will be reaching out to members of the Commission as they gather information that will then be presented to the working group that will manage the effort.

Executive Director Freeman added that the working group for the justice reinvestment effort will be made up of members of the Commission, representatives of the offices who signed the letter launching the initiative, and others to ensure that a broad cross-section of opinions are represented on the working group. CJI is working with Commission staff on their data needs, and will help to ensure that gathering the required data from agencies will not be a burden on those agencies.

Ms. Halladay added that CJI was presently organizing and conducting focus groups across the state to fully understand the variety of ways things are done in the different regions of New Mexico, and what gaps there might be, such as the need for services in an area when a statute mandates that services be provided. Quantitative data is important, but there is also a need for qualitative information. The hope is to have a package of legislation to present in the 2025 Legislative Session.

Members of the Commission asked questions about and discussed what the results had been of justice reinvestment efforts in other states; whether the data that is collected would be available to others; how behavioral health, mental health, and addiction issues were going to be addressed in the effort; whether the justice reinvestment effort would be looking at the juvenile justice system (Ms. Halladay noted that the grant funding the effort restricted the work to the adult system, but that there is always some need to look at both systems); and the hope that the work would include the new medication assisted treatment bill.

VII. Revised Proposed Commission Policy on Designees and Proxies (voting item).

Deputy Director Carver informed the Commission that since the Commission's last meeting, he had discovered that in 2010, the Attorney General had issued Attorney General Opinion 10-02, which barred the Commission from using proxies. The use of designees was allowed. The reasoning was that it was important under the Open Meetings Act for the public to have the benefit of a person deliberating on the issues in front of the Commission, a purpose which would be frustrated by someone carrying a proxy, which deprives the Commission of the missing member's voice at the table. A revised version of Policy No. 1: Designees and Proxies was included in the meeting materials for the Commission's renewed discussion.

Members of the Commission discussed and asked questions about the history between the Attorney General and the Commission in 2010; and that best practices cautioned against the use of proxies.

Vice Chair Martin Suazo made a motion, seconded by Hon. R. David Pederson, to accept the policy as re-drafted.

There was further Commission discussion, specifically concerning 1(e) of the draft that allowed the Chair of the Commission or of a Subcommittee to refuse to accept the assignment of a designee. After Commission discussion, it was agreed to amend that language to read: "The Chair of the Commission or the Chair of a Subcommittee shall verify that the designee has been properly assigned."

Vice Chair Suazo withdrew his motion, and then made a new motion that the draft be approved as amended. The motion was seconded by Prof. April Land. The motion passed unanimously.

IX. Grants Committee.

Vice Chair Suazo, Chair of the Grants Committee, informed the Commission that the Committee would be meeting on November 14, 2023, to award the second round of grants for the year. There was \$1.3 million available to be awarded, and at last count approximately \$3 million in requests.

Legislative Committee

He also informed the Commission that the Legislative Committee, which he also chairs, would be meeting during the Session. Chair Cleavall informed members of the Commission that Judge Pederson had been named to the Legislative Committee, and if any other members wished to be on that committee, they should let him or Deputy Director Carver know.

Members of the Commission asked questions about and discussed the acceptance of grant proposals concerning habeas corpus; performance measures and outcomes of the grants; how projects that had received grants and shown success might be incorporated into legislation; and how and when the grants would be evaluated.

X. Reform and Criminal Code Update Committee.

Deputy Director Carver covered this item for Chair Angela Pacheco, who was unable to attend the meeting. He informed the Commission that work was progressing on the Criminal Code update. He directed the Commission's attention to the handout provided in the meeting materials that outlined the new proposed felony sentencing structure that the Reform Committee had agreed to. This proposal had been discussed with the Speaker of the House and his staff, and meetings were being arranged with the staff of Senate leadership and the Governor's office. He also noted that the work of the working group concerning the criminal sexual contact and sexual penetration statutes had been expanded to include the sexual exploitation of children statutes.

Members of the Commission asked questions about and discussed when legislation would be introduced (Deputy Director Carver indicated that the plan was to have the felony reform bill introduced in the 2025 Legislative Session, with legislation covering specific areas of the law introduced in later sessions after the new structure was adopted); whether House Judiciary Chairperson Christine Chandler had been included in the discussions; and where the funding for the effort stood.

XI. Public Comment.

There was no public comment offered.

XII. Next Meeting.

The Commission set its next meeting for April 4, 2024.

XIII. Adjourn.

The meeting adjourned at 12:20 p.m.