

NEW MEXICO SENTENCING COMMISSION
FULL COMMISSION
MINUTES

December 8, 2006

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Santa Fe

9:30 a.m.

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Joe Caldwell, Chair		Ted Lovato	Michael Hall
	Billy Blackburn		Tony Ortiz
Cindy Aragon			Randall Cherry
John Bigelow			LaDonna LaRan
Roger Gillespie			Paul Guerin
Bob Cleavall			Linda Freeman
Inspector Scott Ford			Julie Frendle
	Mark Donatelli		Banyat Adipat
	Roger Hatcher		
Arthur Pepin			
Michael Cox			
	Gina Maestas (proxy to Judge Pickard)		
Lemuel Martinez			
	Antonio Ortega (proxy to Martin Suazo)		
Judge Lynn Pickard			
Judge John Pope			
Judge Jerry Ritter			
April Land			
David Schmidt			
Martin Suazo			
Melissa Stephenson			
	Angie Vachio (proxy to Dave Schmidt)		
Jim Brewster			

Welcome. John Bigelow, Acting Chair, called the meeting to order at 9:40 a.m. He advised the members that Chairman Caldwell would arrive shortly.

Approval of minutes for the August 18, 2006 meeting. The minutes were approved by consensus.

Report from the Data Committee and the Justice Information Sharing Council.

Michael Cox, Chair of the Data Committee, reported that the Uniform Charge Code Table, maintained by the NMSC, will now be used by the Judiciary and District Attorneys.

A Charge Code Table working group has been formed and the members of that group will oversee ongoing refinements to the table.

Next, Mr. Cox reported that the Data Committee has developed a legislative proposal to establish a uniform crime reporting system in New Mexico. The Data Committee has worked with officials from the Department of Public Safety on the legislation. Under the proposal, the department will act as the central repository for the collection, maintenance and analysis of crime incident activity in New Mexico. New Mexico is one of three states that does not have such a law.

Motion: A motion was made to endorse the uniform crime reporting legislation developed by the Data Committee. The motion was adopted by consensus.

Finally, Mr. Cox reported that the annual NMSC report regarding Earned Meritorious Deductions for State Inmates has been completed for FY 2006. He thanked Paul Guerin, Linda Freeman and other NMSC staff for their work on the report. Tony Ortiz noted that electronic copies of the report have been transmitted to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender.

Mike Hall, Chair of the Justice Information Sharing Council, advised the commission members that the Consolidated Offender Query program is being made available to a growing number of users in the criminal justice system. He also noted that Banyat Adipat has demonstrated the COQ program to law enforcement officials, district attorneys and staff in the Governor's office.

Report from the Juvenile Committee. Bob Cleavall, Chair of the Juvenile Committee, advised the commission members that the Juvenile Committee has been involved in ongoing meetings regarding the possible location of a juvenile justice facility or juvenile justice programming in Las Vegas, NM. He noted that several legislators, elected officials from Las Vegas, and representatives from Children, Youth and Families and the Department of Health have also attended the meetings.

Next, Chairman Cleavall briefed the members on discussions regarding a legislative proposal to provide notification to schools when a juvenile is arrested for a sex offense. Randall Cherry, Bob Cleavall and David Schmidt have been meeting with staff from the Lt. Governor's Office regarding this legislative proposal. During those meetings, the following issues were noted:

- 1) notification based upon an arrest for a sex offense raises constitutional concerns; and
- 2) it may be more appropriate to provide notification to schools when a juvenile is adjudicated as a "youthful offender" for commission of a sex offense.

A legislative proposal to provide notification to schools upon an arrest for a sex offense has not been drafted at this time. If a legislative proposal is developed and introduced during the 2007 legislative session, the Legislative Committee of the NM Sentencing Commission will review the proposal.

Chairman Cleavall then summarized testimony provided to the Juvenile Committee by Bill O'Neill, Executive Director of the Juvenile Parole Board. Mr. O'Neill told the Juvenile Committee that the success of recent reform efforts to reduce the number of children in secure detention facilities has raised concerns for the Juvenile Parole Board. Specifically, children who now receive one-year commitments to secure facilities tend to be high-risk and high-needs juvenile offenders. When those children receive a one-year commitment, current state law mandates release on parole after nine months. He feels that the mandatory parole can be a disservice to some of those children, who are not yet ready to return safely to their homes and communities. The committee members discussed possible changes to the current law, including: 1) removal of the mandatory parole; 2) implementing a mechanism for extending the period of commitment; or 3) providing for a longer term of commitment and a longer parole term. This issue will be discussed further during a Juvenile Committee meeting scheduled for January 5, 2007 at the NMSC's office in Albuquerque.

Finally, Chairman Cleavall summarized proposals discussed during the 2006 interim that are supported by the Juvenile Committee:

- 1) a memorial regarding ignition interlocks for juvenile DWI offenders;
- 2) a special appropriation to provide programming for children of incarcerated parents;
- 3) creation of a juvenile continuum grant fund, accompanied by a special appropriation to provide \$2 million for juvenile services statewide;
- 4) a bill to prohibit posting of arrest information regarding juvenile offenders on web sites maintained by state agencies; and
- 5) a bill to provide consistent language regarding truancy in the Compulsory School Attendance Act and the Families In Need of Services Act .

Mike Hall and Tony Ortiz will advise the members of the Legislative Committee for the NMSC that these proposals are supported by the Juvenile Committee.

Report from the Sex Offender Management Board. Randall Cherry began a briefing on proposed probation and parole supervision guidelines for sex offenders, prepared by the SOMB. However, several commission members had not received the guidelines via e-mail prior to the commission meeting. Chairman Caldwell stated that he did not feel comfortable voting on the proposed guidelines at this time. Consequently, the proposed guidelines will be reviewed and acted upon at the next NMSC meeting. Before the conversation closed, Jim Brewster reminded the commission members that if the guidelines are implemented, the Probation and Parole Division will require an additional seventeen officers.

Next, there was a discussion regarding a legislative proposal developed by the SOMB to add the Secretary of Public Education and the Secretary of Indian Affairs to the membership of the SOMB. The following issues were raised:

- 1) the addition of two more members may upset the balance of the current membership; and

- 2) the federal Adam Walsh legislation has provisions regarding registration of juvenile sex offenders and how tribes will proceed with registration of sex offenders.

Motion: A motion was made to endorse the legislative proposal developed by the SOMB that adds the Secretary of Public Education and the Secretary of Indian Affairs to the membership of the SOMB. The motion was approved by a 10-8 vote.

Report from the Sentencing Reform Committee. John Bigelow, Chair of the Sentencing Reform Committee, briefed the commission members. He stated that the SRC received testimony from John Krebsbach (APD crime lab) regarding efforts to implement the provisions of "Katie's Law", which requires that persons 18 years of age or older provide a DNA sample at booking when they are arrested for certain felony offenses. Mr. Krebsbach and his staff have developed a new DNA collection kit, published a list of qualifying felony offenses, provided training to jail employees throughout the state, and assisted the jails with necessary computer upgrades. Katie's Law goes into effect on January 1, 2007.

Next, Chairman Bigelow summarized a briefing provided to the SRC by Jim Brewster concerning inmate population issues and plans for expanding the number of corrections beds in the state. The male population is at 97% of operational capacity and the female population is at 85% of operational capacity. The opening of Camino Nuevo has eased population pressures for female inmates. Population forecasts indicate an annual 3% increase in the total inmate population for the next several years. With regard to the proposed new prison in Clayton, groundbreaking is scheduled for September 2007 and construction should be completed by March 2008. Clayton will be a level 3 facility and programming will be similar to that offered at the Santa Rosa and Hobbs facilities. By the end of 2006, Springer will be "transitioned" to an adult facility. A total of 220 Level 1 and Level 2 inmates will be housed at Springer. The Corrections Population Control Commission has held a series of meetings. No inmates have been released, but the NM Corrections Department is supportive of a bill to: 1) remove the sunset clause from the enabling legislation for the commission; and 2) amend the enabling legislation so that the Secretary of Corrections is no longer the chair of the commission.

Next, Chairman Bigelow noted that the "Virginia" bill developed by the NMSC has received an endorsement from the interim legislative Courts, Corrections and Justice Committee.

Finally, Chairman Bigelow noted that Judge Lynn Pickard convened a meeting of a sub-committee that gleaned standards from the LEAA document. Judge Pickard asked Tony Ortiz to produce a draft document based upon those standards for further review by the SRC.

Report from the Legislative Committee. Martin Suazo, Chair of the Legislative Committee, stated that the committee will meet every Tuesday during the legislative session, beginning on January 23, 2007. All legislative committee meetings will be held in the conference room at the Administrative Office of the Courts and will begin at 10:00 a.m.

Mike Hall advised the commission members that NMSC staff will continue to contract with New Mexico Legislative Reports and will use that data base to generate a document that illustrates NMSC Legislative Committee actions on bills introduced during the 2007 legislative session.

Staff Report:

-Update on the NMSC Budget. Mike Hall reported that the NMSC had a clean audit. He gave special recognition to LaDonna LaRan, who manages the budget for the NMSC. Mr. Hall then reported that expenditures for FY 07 are right on schedule. Finally, Mr. Hall advised the members that our DFA analyst will support the full budget request submitted by the NMSC.

-Summary of the final Courts, Corrections and Justice Committee meeting for the 2006 interim. Tony Ortiz noted that he prepared a memorandum regarding legislative proposals supported by the CCJ committee. The memo includes the names of assigned sponsors. The memo has been provided to commission members via e-mail.

As requested by the co-chairs of the CCJ committee, Tony Ortiz provided that committee with a memorandum regarding a proposed "Reliable Eyewitness Identification Act". A copy of that memorandum is enclosed in the NMSC member's files.

-Update on workload study for the Public Defender Department, District Attorneys and the Judiciary. Tony Ortiz advised the members that the data collection period, six weeks in duration, has been completed for all three entities involved in the study. Participation rates during the data collection period were very high, with one exception. Only thirty-two contract attorneys, who provide legal services to the Public Defender Department, participated in the study. More than one hundred attorneys provide contract legal services to the Public Defender Department. Now that data collection has been completed, work groups for the three entities will convene to assess the data and consider qualitative adjustments, if needed.

-Update on "felony offender" draft legislation developed for the New Mexico Association of Counties. Tony Ortiz noted that the CCJ committee endorsed this legislation, which establishes a mechanism to reimburse counties for the costs of incarcerating felony offenders.

Finally, Tony Ortiz reported that NMSC staff had been contacted by Renada Peery, our analyst at the Legislative Finance Committee. Ms. Peery asked if we could "refresh" a report done previously regarding the number of state inmates eligible for controlled, early release. Paul Guerin has completed work on the report and it has been provided to the LFC.

Next meeting. The next NMSC meeting will be held on April 20, 2007. The time and location for the meeting will be determined. **(Please note that the meeting date was recently changed to May 11, 2007).**

Adjourn. The meeting adjourned at 11:45 a.m.