

# NEW MEXICO SENTENCING COMMISSION

March 28, 2008

MINUTES

NMSC FULL COMMISSION

NM Educator's Federal Credit Union, Albuquerque, NM

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Joe Caldwell, Chair		Mark Weber, LFC	Michael Hall
	Billy Blackburn, Vice Chair (proxy to Mark Donatelli)	Ella Frank, Adult Parole Board	Tony Ortiz
Cindy Aragon			Randall Cherry
John Bigelow			Linda Freeman
Bob Cleavall			Nancy Gettings
	John Denko		Paul Guerin
Roger Gillespie (for Dorian Dotson)			Dan Cathey
Mark Donatelli			Margie Lueras
Ron Lucero (for Veronica Garcia)			
Steve Suttle (for Gary King)			
	Gina Maestas (proxy to Lynn Pickard)		
Arthur Pepin			
Lynn Pickard			
John Pope			
Jerry Ritter			
April Land (for Suellyn Scarnecchia)			
	David Schmidt (proxy to Angie Vachio)		
	Melissa Stephenson		
Martin Suazo			
Angie Vachio			
Michael Vigil			
	Kent Waller		
Lemuel Martinez			
Jim Brewster (for Joe Williams)			

**Welcome:** John Bigelow called the meeting to order at 9:35 a.m.

**Approval of minutes for the November 30, 2007 meeting.** The minutes for the November 30, 2007 meeting were approved by consensus.

### **Staff Report**

- **Report on the current NMSC budget and the FY 09 budget.** Michael Hall reported that the NMSC is operating just barely within the budget. Mr. Hall noted the Commission expended \$15,000 more this year than last year on mileage and per diem for attendance at meetings. The budget may need to be increased next year to cover increased travel costs and increases in salary and benefits. Mr. Hall plans to submit the first draft of the strategic plan to the chairs for their review. It is likely NMSC will need to request an appropriation for rent at UNM next year.
- **Update on physical plant for the NMSC Office.** Michael Hall reported NMSC staff is working with UNM to secure facilities to house NMSC staff. Additionally, NMSC is building a rent cost component into new research projects. It is expected that a final decision on housing for NMSC will be presented to the budget subcommittee of the NMSC or the full commission before the NMSC budget is submitted on September 1, 2008.
- **Summary of the 2008 Legislative Session.** Tony Ortiz gave a summary of the measures related to the criminal justice system that were enacted in the 2008 legislative session, including HB 100, SB 68, SB 71, HJM 22, HM 3, HM 8, HM 12, SJM 19 and SM 47. The NMSC received funding to conduct the following research projects: HB 49 – review the prevalence and results of de novo appeals of DWI cases to district courts - \$20,000; HB 109 – convene a task force to study the collateral consequences of criminal arrest, conviction and extended periods of incarceration and to make recommendations on how to neutralize or eliminate those consequences - \$20,000; HB 270 – study bias-based policing in New Mexico ( which will enable NMSC to expand work already underway) – \$26,000.
- **Research Request from the Legislative Finance Committee.** Tony Ortiz reported the LFC has asked the NMSC to study the reasons why the state inmate population has declined over the past 18 months. NMSC staff will report to the LFC on this topic in July 2008.

The Commission expressed its thanks to NMSC staff for their efforts during the legislative session. John Bigelow expressed his thanks to Martin Suazo for his leadership of the legislative committee. John Pope expressed his concerns regarding the perceived endorsement by the NMSC legislative committee for an appropriation to the controversial Second Chance program. The commission discussed how the legislative

committee was appointed, its mission and whether the legislative committee should be making recommendations regarding appropriation bills.

Chairman Caldwell joined the meeting at this time, and John Bigelow yielded to the Chair to preside over the remainder of the meeting.

**MOTION:** Steve Suttle made a motion that a sub-committee be appointed to review the procedures of the legislative committee and to provide more guidance on what the committee is to consider within the confines of statutory authority. Lemuel Martinez seconded the motion.

The Commission discussed the issue at length, including the origins of the legislative committee, the charge of the committee and the authority granted to the committee. Several members provided their recollections of the Second Chance appropriation bill and the legislative committee's discussion regarding that bill.

Chairman Caldwell provided a brief history of the Criminal and Juvenile Justice Coordinating Council and how that council evolved into the New Mexico Sentencing Commission. He stated his belief that the NMSC does have the responsibility to give guidance to the legislature on proposed appropriations, as well as substantive legislation. NMSC staff has developed a very effective method of bill tracking which enables the legislative committee to rapidly respond to developments during a legislative session. NMSC has gained credibility with the legislature by reaching consensus to recommend or not recommend proposed legislation. If no consensus can be reached, NMSC staff provides the vote count to the legislature, which enables the legislature to better assess the proposed legislation.

It was suggested the motion should be tabled because Martin Suazo, the chair of the legislative committee, was not present. Steve Suttle then withdrew his motion. There was consensus that the legislative committee did not endorse the Second Chance appropriation bill as an appropriation particularly to Second Chance, and any communication that it had done so was likely a miscommunication.

Chairman Caldwell then directed the legislative committee to convene during the 2008 interim to discuss the committee's scope, votes and reporting of votes in the future. Chairman Caldwell noted the discussion provided an excellent opportunity to refine the work of the Commission.

Angie Vachio noted that the Second Chance program should not be confused with the federal Second Chance Act recently enacted by Congress.

- **Report Regarding the Governor's Prison Reform Task Force.** John Bigelow reported that the Governor, by executive order, created the Governor's Prison Reform Task Force and charged the task force to identify reform measures to

reduce inmate recidivism rates and stabilize the expense of the state prison system. The task force will develop recommendations within three areas: 1) front-end programs that divert offenders from incarceration; 2) programs and services for offenders while they are incarcerated in prison; and 3) re-entry programs and services for offenders in preparation for and following discharge from prison, including case management services and services provided by the adult probation and parole division. The task force has already met one time. A sub-committee of the task force will meet on April 9, 2008 to receive public comment. The next full meeting of the task force will be held on April 23, 2008. Several members of NMSC and NMSC staff are members of the task force. The task force is charged with developing recommendations for the Governor by June 30, 2008. It was the consensus of the Commission that the task force presents a unique opportunity and that NMSC members and NMSC staff should participate fully in the task force.

- **Report from the Sentencing Reform Committee.** No report at this time.

Next, Chairman Caldwell expressed his belief that the NMSC should make every effort to provide assistance to the judiciary, the district attorneys and the public defender department to ensure the Workload Study is a useful tool for securing the resources needed to maintain properly functioning criminal justice system. It was noted that NMSC staff had difficulty getting accurate data from the Administrative Office of the District Attorneys. Susana Martinez, District Attorney for the Third District, has met with NMSC staff on several occasions to provide assistance with the district attorneys data. It was also noted that during the 2008 legislative session, the judgeship bill was tabled in Senate Finance Committee for reasons not pertaining to the Workload Study.

Chairman Caldwell directed the Sentencing Reform Committee to begin discussions on how to continue to inform the legislature on the utility of the Workload Study. It was suggested that the NMSC could develop a memorial referencing the Workload Study and that it be used as a guideline in all deliberations over budgets for the judiciary, the offices of the district attorneys and the public defender department.

Tony Ortiz noted that NMSC staff briefed the Legislative Finance Committee and the Courts, Corrections and Justice Committee during the 2007 interim on the recommendations set forth in the Workload Study. NMSC staff had numerous communications with LFC and DFA staff regarding the information set forth in the Workload study. NMSC staff also referenced the study results in committee hearings held during the 2008 legislative session.

Mark Weber, LFC analyst, noted requests and priorities included in budget submissions on September 1<sup>st</sup> have a better chance of succeeding than requests made after that date. While each agency submits its budgets independently, the needs contained in

the Workload Study should be coordinated between the agencies in order for each individual budget to reflect the needs and priorities of each agency.

- **Report from the Sex Offender Management Board.** Randall Cherry reported the board met last week to prepare its work plan for the 2008 interim. The board has formed a subcommittee to revisit the issue of whether aggravated stalking should be included as a sex offense subject to registration and plans to report its findings to the full Commission in June. Additionally, the board formed a large subcommittee to address the federal Adam Walsh Act. The board plans to report its recommendations regarding Adam Walsh to the full Commission before the end of the year. At the request of members of this Commission, the board will reconsider its recommendation regarding the reunification of families of sex offenders under parole or probation supervision. Three Commission members are currently working with a board member to propose new language regarding reunification. If the board can reach agreement regarding the proposed changes, the board will present the standards and guidelines for supervision of sex offenders reflecting the proposed changes for reconsideration by the Commission at the Commission's June meeting.
- **Report from the Juvenile Committee.** April Land reported the committee has finalized its meeting schedule and will be looking at reintegration programs, gender specific issues and mental health services for juveniles. The committee will hold its next two meetings at Area One in Springer and the J. Paul Taylor Detention Center in Dona Ana County.
- **Report from the Data Committee and the Justice Information Sharing Council.** Mike Hall reported that a representative from the offices of the district attorney has not attended a data committee meeting for the past four meetings and noted the data committee needs input from the district attorneys to continue its work. The data committee has decided it will meet quarterly, independent of the Justice Information Sharing Council, since the data committee work deals more with policy issues than the actual data. JISC will continue to meet bimonthly. Additionally, while the NMSC declined to work on expanding the charge code table to include traffic violations, the Commission, at the request of JISC, will request funding from the Traffic Safety Bureau to hire an expert to complete the traffic section of the charge code table and pass maintenance of the table to the AOC. NMSC staff has sent out 2500 surveys on the gender specific probation and parole study. At this time, five hundred of the surveys have been returned. Telephone surveys are being conducted on the bias-based policing study. JISC has signed an MOU with the attorney general's office to use federal funding to upgrade the consolidated offender query to make possible statewide, instant reporting of emergency domestic violence restraining

orders. NMSC staff is working on the programming to make possible real time reporting of emergency restraining orders. JISC continues to work on a consolidated system to run queries against individuals. With recent server upgrades, the servers are running at 2 percent capacity. The system infrastructure is now in place to accommodate the anticipated increase in queries when the system becomes a real time system. The New Mexico system was built at a cost of less than \$1 million, far less than what other states have spent for similar systems.

**Plan for next meeting.** The next NMSC meeting is scheduled for Friday, June 27, 2008 at 9:30 a.m. The location will be determined.

**Adjourn.** The meeting adjourned at 12:15 p.m.