

NEW MEXICO SENTENCING COMMISSION

May 18, 2011

DRAFT MINUTES

NMSC FULL COMMISSION

NM Educator's Federal Credit Union, Albuquerque, NM

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Marron Lee, Chair		Mike Hall	Tony Ortiz
Cindy Aragon		Ella Frank	Linda Freeman
Sheila Lewis (for Billy Blackburn)		Steve Prisoc	Nancy Gettings
	Bob Cleavall	Kevin Boyd, ASPEN	Renee Cordova
	Jacqueline Cooper	K.C. Rogers, ASPEN	Banyat Adipat
Regina Chacon (for Gorden Eden)		Jim Brewster	
Edna Reyes-Wilson (for Yolanda Deines)			
Matt Coyte (for Mark Donatelli)			
Sheriff Raymond Cobos			
Ron Lucero (for Hanna Skandera)			
Mary Helen Baber (for Gary King)			
Gina Maestas			
	Amy Orlando		
Patrick Simpson (for Arthur Pepin)			
	Judge John Pope		
	Judge Jerry Ritter		
David Schmidt			
Martin Suazo			
	Rep. of a victim organization (vacant)		
	Ricky Madrid		
Judge Michael Bustamante (for Judge Michael Vigil, (COA)			
Michael Vigil, Citizen			
April Land (for Kevin Washburn)			
Lupe Martinez			

Welcome. Marron Lee, Chair, called the meeting to order at 10:10 a.m. She welcomed Commission members and guests and asked everyone in attendance to introduce themselves.

Approval of minutes for the August 11, 2010 meeting.

MOTION: Martin Suazo moved, and Gina Maestas seconded, that the minutes for the November 17, 2010 meeting of the Sentencing Commission be approved as written. The motion carried unanimously.

Staff Report:

Final disposition of substantive measures enacted during the 2011 Legislative Session.

House Bills:

--HJC Substitute for HB 93: requires training of law enforcement officers regarding interaction with persons who have mental impairments.

Signed (Chapter 180, Laws 2011)

--HCPAC Substitute for House Bill 182 (identical to SB 228): amends penalties for serving alcohol to minors. **Vetoed**

--House Bill 188: creates an additional judgeship in the 8th Judicial District.

Signed (Chapter 41, Laws 2011)

--HJC Substitute for House Bill 298: amends provisions of the Sex Offender Registration and Notification Act. **Vetoed**

--HJC Substitute for HB 311: enacts the Uniform Collateral Consequences of Conviction Act.

Vetoed

--HB 347: amends the Delinquency Article of the Children's Code to modify detention procedures. **Vetoed**

--HJC Substitute for HB 426: repeals and re-enacts the (pre-statehood) statute regarding inspection of county detention facilities.

Signed (Chapter 142, Laws 2011)

--HB 469: requires each judicial district to establish an expedited release program for offenders who commit technical violations of the conditions of their probation. **Vetoed**

--HB 527: requires the Department of Public Safety to maintain an electronic subscription

service and provide notice of updates to criminal history records to agencies that subscribe to the service. **Signed (Chapter 83, Laws 2011)**

Senate Bills:

--SB 77: requires the inclusion of child abuse incident training in the curriculum of a basic law enforcement training class.

Signed (Chapter 49, Laws 2011)

--SB 78: requires local school boards to develop bullying prevention programs.

Signed (Chapter 50, Laws 2011)

--SFC Substitute for SB 96: authorizes the imposition of a fee on telecommunication services for prison and jail inmates for the purpose of funding a victim notification system. **Pocket veto**

--SB 102: authorizes taking palm print impressions at the time of booking from arrested persons.

Signed (Chapter 17, Laws 2011)

--SB 134: provides penalties for the possession or distribution of synthetic cannabinoids.

Signed (Chapter 16, Laws 2001) (Has an emergency clause, so it takes effect immediately upon the Governor's signature)

--SCORC Substitute for SB 228 (identical to HB 182): amends penalties for serving alcohol to minors. **Vetoed**

--SB 232: requires the Human Services Department to ensure that a primary care provider authorized to administer buprenorphine receives payment for office-based buprenorphine treatment services for opioid addiction.

Pocket veto

--SB 321: enacts the Substance Abuse and Crime Prevention Act, which authorizes treatment in lieu of further criminal proceedings for certain drug possession offenders. **Vetoed**

--SB 365: enhances the scope of Katie's Law and requires a person arrested for the commission of a felony to provide a DNA sample at the time of booking. Also provides that the DNA sample shall not be analyzed and shall be destroyed unless certain conditions are met. **Signed (Chapter 84, Laws 2011)**

--SB 509: allows a person convicted of homicide by vehicle while DWI to apply for an ignition interlock license. **Vetoed**

Tony Ortiz also advised the members that Sentencing Commission staff will be working with a task force convened pursuant to HJM 4 (2011). The task force will be hosted by the Administrative Office of the Courts and will seek to identify ways to increase efficiencies in the courts and reduce the burden on county detention facilities of housing arrestees held on felony charges or for violations of probation or parole.

Additionally, NMSC staff has been attending meetings of the New Mexico Association of Counties' Detention Reform and Cost Containment Interdisciplinary Committee. The committee is chaired by Caleb Chandler, former legislator and magistrate judge and currently a member of the county commission in Curry County. The NMSC' Sentencing Reform Committee will examine issues raised by the interdisciplinary committee and the two groups will work in tandem.

NMSC Budget for FY2012. Tony Ortiz advised the members that the operating budget for the New Mexico Sentencing Commission was reduced by 19.4% (-\$128,000) for FY2012. As a consequence of the reduction, the Sentencing Commission will no longer be able to support the Consolidated Offender Query (COQ). Banyat Adipat, Program Manager for the Justice Information Sharing Council and administrator for the COQ, will not be retained in FY2012. Banyat's work in building the COQ was acknowledged and several Commission members thanked him and wished him well.

The Administrative Office of the District Attorneys and the Judiciary have agreed to share the responsibility of administering and supporting the COQ in FY2012.

Administrative matters. The New Mexico Sentencing Commission has moved to a new office space. The office is now located on the University of New Mexico campus and the street address is 1915 Las Lomas NE.

Summary of Sentencing Commission research projects.

The Sentencing Commission annually gathers and analyzes data needed to refresh the calculation of resource needs for the Judiciary, District Attorneys and Public Defender Department. In late April of this year, NMSC staff sent an email to those entities, reminding them to provide us with the FY2011 data needed to refresh the resource needs. Prior to September 1st, NMSC staff will provide the resource needs calculations to the aforementioned entities, the interim legislative Courts, Corrections and Justice Committee, the Legislative Finance Committee and the Department of Finance and Administration.

The Sentencing Commission has a statutory duty to publish an annual report regarding the impact of earned meritorious deductions on sentence lengths for state inmates. Staff will begin

work on this task in July 2011. When completed in October 2011, the report will be distributed to the Secretary of Corrections, the Administrative Office of the Courts, the Administrative Office of the District Attorneys, the Chief Public Defender, the interim legislative Courts, Corrections and Justice Committee, the Legislative Finance Committee and the Department of Finance and Administration.

At the request of the Legislative Finance Committee, the Sentencing Commission publishes an annual report regarding state inmates eligible for controlled release. When completed in October 2011, the report is distributed to the Secretary of Corrections, the interim legislative Courts, Corrections and Justice Committee, the Legislative Finance Committee and the Department of Finance and Administration.

The Sentencing Commission is now in its second year of work on prison population forecasting for the New Mexico Corrections Department. NMSC staff has quarterly meeting with NMCD staff to monitor population trends. NMSC staff is working on a draft report, which will be reviewed by NMCD staff in the coming weeks. A final report is due to the NMCD by June 30, 2011. It is anticipated that the report will be presented by NMSC staff during the 2011 interim to the Courts, Corrections and Justice Committee and the Legislative Finance Committee.

The Sentencing Commission annually gathers and analyzes jail census information and custody lists. We then provide the Department of Finance and Administration (DFA) with information needed to reimburse counties pursuant to the County Detention Facility Reimbursement Act. The web-based survey used to gather the jail census information will be posted on June 30, 2011.

The Children, Youth and Families Department contracts with the Sentencing Commission for research concerning disproportionate minority contacts in the juvenile justice system. The contract also provides for site visits by NMSC staff to assess juvenile justice programs funded by the Juvenile Justice Advisory Commission. One of the ultimate goals of this research is the publication of a report required of states by the federal Office of Juvenile Justice and Delinquency Prevention. That report is due by June 2012.

The Sentencing Commission is working on a New Mexico-specific sex offender recidivism study for the Sex Offender Management Board.

Description of Alternative Sentencing Programs and Educational Networks of New Mexico, Inc. (ASPEN). K.C. Rogers, President of ASPEN, Inc., summarized his professional background and the programs he manages. Mr. Rogers is a retired New Mexico State Police Officer, with 21 years of service. The majority of his law enforcement career was spent working as an undercover officer and as a sergeant working narcotics investigations. Personally responsible for incarcerating nearly 2,000 people during his career, Mr. Rogers testified that he came to the conclusion that punishment alone cannot deter drug and alcohol behavior that fuels criminal behavior. Following his retirement from the State Police, Mr. Rogers developed educational programs that are offered as alternatives to incarceration.

The most utilized program, the “ASPEN program,” has been offered for the past nine years. The program lasts 6 and one-half hours and costs \$100.00. The program provides general information regarding the criminal justice system, types of punishment, court processes, probation and parole, the negative effects of drug and alcohol abuse, and the consequences of living a criminal lifestyle. Mr. Rogers emphasized that it is the offender’s responsibility to register, pay for and successfully complete the program. Upon completion, a certificate of completion is issued, so that the offender can present it to the court or a probation/parole officer. The ASPEN program has been used by magistrate courts, district courts and the adult probation and parole division, as an alternative to sentencing or as an alternative to incarceration for violation of probation/parole. During the past nine years, more than 30,000 people have attended the ASPEN program. In closing, Mr. Rogers emphasized his belief that the program can be used to change destructive behaviors and can be used as an effective alternative to incarceration.

Report from the Legislative Committee. Martin Suazo, Chair, summarized the work of the NMSC’s Legislative Committee during the 2011 session. The committee held six meetings, reviewed more than 100 criminal and juvenile justice bills and all meetings were well attended. Chairman Suazo expressed his appreciation for the regular attendance of Cabinet secretaries, including DPS Secretary Gordon Eden, CYFD Secretary Yolanda Deines and NMCD Secretary Lupe Martinez.

Report from the Justice Information Sharing Council. Steve Prisoc, Chief Information Officer for the Judiciary, provided additional information regarding transition of the Consolidated Offender Query from the NMSC to shared support by the Judiciary and the Administrative Office of the District Attorneys. He noted that an MOU has been drafted to define the respective responsibilities. Banyat Adipat has been working with IT staff at the Judiciary, Administrative Office of the District Attorneys, the Department of Information Technology, and the New Mexico Corrections Department to complete the transition prior to June 30, 2011.

Mr. Prisoc noted the importance of the COQ, which is a source of some information (juvenile adjudications and protective orders in domestic violence cases) that cannot be found on public-access web sites maintained by other criminal justice entities.

Next meeting. The next meeting of the New Mexico Sentencing Commission will be held on August 24, 2011.

Adjourn. The meeting adjourned at 11:30 a.m.