

NEW MEXICO SENTENCING COMMISSION

April 15, 2014 MINUTES

NM Educator's Federal Credit Union,
4100 Pan American Highway NE
Albuquerque, NM
10:00 AM

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Marron Lee, Chair		Lee Hood	Tony Ortiz
Bob Cleavall, Vice Chair	Sec. Hanna Skandera		Linda Freeman
Cindy Aragon	Sheriff Raymond Cobos		Amir Chapel
Jorge Alvarado, Chief PD	Martin Suazo		Renee Cordova
Mark Donatelli	Hon. Jerry Ritter		
Hon. Michael Vigil (COA)			
David Schmidt			
Michael Vigil (citizen)			
Amy Orlando			
Hon. Joel Garnett			
Kay Monaco			
Regina Chacon (for DPS Sec. Greg Fouratt)			
Jennifer Padgett (for CYFD Sec. Yolanda Berumen-Deines)			
Max Minzner			
David Pederson (for AG Gary King)			
Patrick Sampson (for Arthur Pepin)			
Frank Zubia			
Clint Wellborn			
Jim Brewster (for NMCD Sec. Gregg Marcantel)			

Welcome. Marron Lee, Chair, called the meeting to order at 10:10 a.m. She welcomed Commission members and guests. She noted the presence of two new members.

Frank Zubia is a public member appointed by the Governor and is a representative of the New Mexico victim rights organization. Mr. Zubia is the Executive Director for the Crime Victims Reparations Commission. Clint Wellborn replaces Matt Chandler as the District Attorney appointed the District Attorneys Association of NM to serve on the Sentencing Commission. The Chair also noted that DPS Secretary Greg Fouratt has replaced Gorden Eden as an *ex officio* member of the Sentencing Commission.

Approval of minutes. The minutes for the December 10, 2013 meeting were approved by consensus.

NMSC Staff Report:

--**Summary of 2014 Legislative Session.** Tony Ortiz summarized the final disposition of germane legislation enacted during the 2014 legislative session:

House Bill 63, as amended requires the local government division of the department of finance and administration to work with Luna, Grant and Hidalgo counties to create a three-year demonstration project to provide behavioral health services to individuals incarcerated in or released from county detention facilities. **(Vetoed)**

House Bill 141, as amended creates additional district court judgeships in the First, Second, Fifth and Thirteenth judicial districts and creates an additional magistrate in the Dona Ana district. **(Chapter 73, Laws 2014)**

Senate Bill 19, as amended prohibits texting while driving and authorizes penalty assessment misdemeanors. For a first violation, it is a \$25.00 penalty assessment. For second and subsequent violations, it is a \$50.00 penalty assessment. **(Chapter 5, Laws 2014)**

SPAC Substitute for Senate Bill 21, as amended enacts a new section of the Criminal Code to make it a crime to disrupt communications and utility services by theft or intentional damage. **(Chapter 30, Laws 2014)**

SFC Substitute for Senate Bill 313, as amended (aka The General Appropriation Act) (Chapter 63, Laws 2014) included the following funding provisions:

- \$3.3 million in fiscal year 2015 for distributions to counties pursuant to the County Detention Facility Reimbursement Act;

- \$140,000 in fiscal year 2015 to support implementation of the law enforcement assisted diversion program in the city of Santa Fe **(line item vetoed)**; and

- \$608,200 to the NM Sentencing Commission for its operating budget in fiscal year 2015. That amount includes the requested expansion (\$50,000) to assist with

implementation of the Results First Initiative.

--**Results First Initiative.** Linda Freeman and Tony Ortiz briefed commission members on the progress of the NM Results First Initiative. The Legislative Finance Committee has used the Results First evaluation model to calculate and compare the long-term costs and benefits of programs in adult and juvenile justice, child welfare, mental health and substance abuse, and early childhood. The NMSC's operating budget was increased by \$50,000, to fund its responsibilities in providing data for the evaluation model, assisting the NMCD and LFC with data issues, and performing an evaluation of the Men's and Women's Recovery Academies. The LFC, NMCD and NMSC have drafted and reviewed a proposed Memorandum of Understanding that sets forth the respective responsibilities of those entities with regard to the Results First Initiative. The PEW-MacArthur Foundation is working on a case study that will assess progress on implementing Results First in New Mexico. Finally, the annual Results First state's convening will be held this year in Santa Fe on August 6th-7th.

--**Evaluation of Women's and Men's Recovery Academies.** This research work is related to the Results First Initiative, as noted above. A primary goal of these evaluations is to begin building an inventory of analyses of New Mexico programs. Also, there is a paucity of transitional housing for offenders in New Mexico. During the ensuing discussion, it was noted that sex offenders are not allowed to reside in the academies. Also, the adult probation and parole division has been discussing a collaboration with Workforce Solutions to enhance job seeking efforts for academy residents.

--**Interim Legislative Criminal Justice Reform Sub-Committee.** The next sub-committee meeting is scheduled for April 23, 2014. NMSC staff recently published a document entitled, "Information for the Justice Reform Effort in New Mexico" (April 2014). The document has been provided to the sub-committee members and to members of the interim legislative Courts, Corrections and Justice Committee. NMSC staff will attend the meeting on April 23rd to answer any questions regarding information included in the document.

--**Presentation to the "Oliver Seth In of Court.** The "Oliver Seth In of Court" is a Santa Fe-based group of lawyers and judges that meets on a monthly basis to gather information and discuss current legal topics. On April 16th, Linda Freeman and Tony Ortiz will participate in a panel discussion regarding the justice reform effort in New Mexico. They will be joined on the panel by Rep. Moe Maestas and Sen. Lisa Toracco.

Report from the Legislative Committee. On behalf of Chairman Martin Suazo, Tony Ortiz briefed Commission members on the work of the NMSC's Legislative committee. The legislative committee met three times during the 2014 session. The committee

reviewed a total of 52 germane bills and memorials. As always, the NMSC Bill Summary was widely distributed to policy makers and their staff during the 2014 session.

Report from the Juvenile Committee. Bob Cleavall, Chair, briefed Commission members on the work of the Juvenile Committee. The committee held its organizational meeting on April 4th. A scope of work for the 2014 interim was developed and includes the following topics:

- gather information regarding provision of behavioral health services to youth in the juvenile justice system;

- get a report from the Truancy Task Force co-chaired by Chief Justice Petra Maes and Secretary Berumen-Deines;

- get a briefing from CYFD on the opening on Lincoln Pines, located in Ruidoso;

- get information regarding ongoing Cambiar training for CYFD FTE who work at facilities and those who provide field services;

- get a briefing on anti-bullying policies in APS school district;

- get a briefing from CYFD regarding authority needed to regulate private operators like the Tierra Blanca Ranch;

- get a briefing from Chairman Cleavall regarding the work of the youth sports commission.

Chairman Cleavall also noted that Judge Marie Ward attended the Juvenile Committee meeting on April 4th. She is a newly appointed Children's Court judge in the 2nd Judicial District. Finally, The Juvenile Committee received a presentation from Charles Sallee, LFC and Dr. Jon Courtney, LFC, regarding Results First and its utility in evaluating juvenile justice programs and child welfare programs.

Report from the Sex Offender Management Board. Tony Ortiz, Acting Chair, briefed Commission members on the work of the SOMB. The board held its organizational meeting on April 10th. During that meeting, it was reported that Jose Villegas, Therese Duran and Tony Ortiz will appear before the NM Counseling and Therapy Practice Board on April 25, 2014. This is part of an ongoing effort to find an administrative home for the "Proposed Standards for Individuals who Provide Adult Sex Offender Treatment", produced by the SOMB.

On April 10th, SOMB members and staff discussed the following topics for consideration during the 2014 interim:

- Continue previous efforts to provide the adult parole board with a risk and needs assessment for sex offenders;

--Monitor any proposed revisions to the New Mexico Sex Offender Registration and Notification Act;

--Receive a briefing from the NM Department of Public Safety regarding the federal SORNA compliance packet submitted by the department to the federal SMART Office;

--With regard to Adult Parole Board hearings for sex offenders, the following issues were raised: 1) for individuals who serve some portion or all of their parole term in prison, that period of incarceration is not being counted towards the 5-year term before a hearing before the Adult Parole Board; 2) concerns regarding offenders who are on ICE detainers; 3) whether sex offenders can retain private counsel for parole hearings; and 4) the burden of proof (clear and convincing evidence) that must be met by the state to require that a sex offender remain on parole;

--Receive a briefing on rates of recidivism for sex offenders in New Mexico; and

--Send a letter to the Chief Justice of the NM Supreme Court requesting a court rule to carry out the provisions of Section 31-20-5.2 NMSA 1978, regarding terms and conditions of probation for sex offenders

Report from the Justice Information Sharing Council. Tony Ortiz, Vice Chair, briefed Commission members on the work of the JISC. The JISC met on April 9th and the primary topic was the migration of the Consolidated Offender Query to the Department of Public Safety. The servers will be moved from the AODA to DPS on April 11th. After the servers are secured, DPS will begin work on software upgrades and security enhancements to the COQ. Registration and help desk duties will also migrate, from the AOC to DPS. The DPS help desk will handle requests for new users and questions regarding the COQ. Information developed by CAaN ES, INC. for the AODA regarding necessary upgrades to the COQ will be shared with DPS. Finally, it is important to note that the COQ will not be operational while the move is being made to DPS.

Next meeting. The next Sentencing Commission meeting will be held on August 19, 2014.

Adjourn. The meeting adjourned at 12:10 p.m.