

# NEW MEXICO SENTENCING COMMISSION

August 19, 2014 MINUTES

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

<b>Commission Members Present</b>	<b>Commission Members Absent</b>	<b>Others</b>	<b>NMSC Staff</b>
Marron Lee, Chair	Cindy Aragon	Eric Chenier	Tony Ortiz
Bob Cleavall, Vice Chair	Sec. Hanna Skandera	Mike Hall	Linda Freeman
Ben Baur, (for Jorge Alvarado, Chief PD)	Sheriff Raymond Cobos		Renee Cordova
Martin Suazo	Hon. Michael Vigil, (COA)		
Mark Donatelli	Michael Vigil, citizen		
Hon. Jerry Ritter	Hon. Joel Garnett		
David Schmidt	Gregg Marcantel, NMCD Secretary		
Clint Wellborn, DA			
Amy Orlando			
Frank Zubia			
Kay Monaco			
Greg Fouratt, DPS Secretary			
Jennifer Saavedra (for CYFD Sec. Yolanda Berumen-Deines)			
Max Minzner			
David Pederson (for AG Gary King)			
Fern Goodman (for Arthur Pepin) (on phone)			

**Welcome.** Marron Lee, Chair, called the meeting to order at 10:05 a.m. She welcomed Commission members, staff, and guests.

**Approval of minutes.** The minutes for the April 15, 2014 meeting were approved by consensus.

**NMSC Staff Report.**

Staff briefed commission members on the FY2016 proposed operating budget for the NMSC. The NMSC plans to submit a flat budget proposal, in the amount of \$608,2000.

**Motion:** A motion was made to approve the NMSC's FY2016 budget proposal in the amount of \$608,200. The motion was adopted unanimously

Next, staff briefed commission members on the elements of the NMSC's FY2016 proposed strategic plan. An electronic copy of the strategic plan had been sent to members prior to the meeting. **Motion:** A motion was made to approve the NMSC's FY2016 proposed strategic plan. The motion was adopted unanimously.

Next, staff briefed commission members regarding the elements of a proposed resolution concerning appropriate procedures to provide notice of public meetings. An electronic copy of the resolution had been sent to members prior to the meeting. **Motion:** A motion was made to approve the proposed resolution. The motion was adopted unanimously.

Next, staff and members summarized the Results First regional convening, which took place in Santa Fe during the first week of August. In conjunction with the convening, PEW and the MacArthur Foundation are finalizing a case study, entitled "New Mexico's Evidence-based Approach to Better Governance: A Progress Report on Executing the Results First Approach" (August 2014). When the case study is published, an electronic copy will be provided to commission members.

Next, staff briefed commission members on the 2014 prison population forecast report, produced for the New Mexico Corrections Department. NMSC staff meets on a quarterly basis with NMCD staff to discuss population trends and NMCD policies that may impact inmate population. The primary theme in the 2014 report remains the ongoing increase in the female inmate population. NMSC projections are that the increase will continue: in FY2016 the projected high count for the female population is 745 inmates. The prison population forecast report will be presented to the interim Courts, Corrections and Justice Committee in October 2014.

Next, staff briefed commission members regarding work on the annual resource needs assessment for the Judiciary, District Attorneys and Public Defender Department. The assessment should be completed next week and the table will be transmitted to all commission members. Additionally, the assessment is provided to LFC and DFA staff who use the information to inform work on budgets for the aforementioned entities.

Next, staff briefed commission members on a staffing study for the New Mexico Motor Transportation Police Division. The report includes three sections: 1) the staffing study;

2) an estimate of the number of commercial vehicles bypassing New Mexico ports of entry; and 3) a review of the fee structure for commercial motor vehicles used in New Mexico compared to other states. LFC staff has expressed interest in the report and the report will be presented to the interim Courts, Corrections and Justice Committee later in the year.

Next, staff briefly summarized the following:

- The legislative Criminal Justice Reform Sub-Committee is meeting on a monthly basis. NMSC staff has provided research and data to the sub-committee. The next sub-committee meeting is scheduled for August 27<sup>th</sup>;

- NMSC staff attends meetings of the Governor's Recidivism Task Force, and is providing assistance with the bibliography for the task force White Paper on reentry reform and recidivism reduction;

- NMSC staff attends meetings of the Children's Code Stakeholder's Committee. The next meeting of that committee is scheduled for September 25<sup>th</sup>. The committee is seeking technical assistance with proposed juvenile justice reform from the MacArthur Foundation;

- The Bernalillo County Criminal Justice Review Commission is finalizing its findings and recommendations. One of those recommendations will be to ask the NM Supreme Court to review and adopt new case management rules for felony cases in the Second Judicial District Court;

- The Results First regional convening was recently held in Santa Fe (August 6<sup>th</sup>-7<sup>th</sup>). New Mexico participants included representatives of the NM Corrections Department, Legislative Finance Committee and the NM Sentencing Commission. Fifteen states, including New Mexico, attended the convening. Santa Fe was chosen as the site as New Mexico is in the first rank of states implementing the Results First cost-benefit analysis. PEW-MacArthur will soon finalize work on a case study entitled, "New Mexico's Evidence-based Approach to Better Governance: A Progress Report on Executing the Results First Approach" (August 2014); and

- Linda Freeman briefed Commission members on the National Forum on Criminal Justice conference (August 10<sup>th</sup>-12<sup>th</sup>). She attended presentations regarding the use of validated instruments to assist with pre-trial release decisions. Ms. Freeman also noted that the federal SMART (Sex Offender Management, Apprehension, Registration and Tracking) Office is poised to publish a web site dedicated to research and best practices regarding management of sex offenders.

**Report from the Justice Information Sharing Council (JISC).** Mike Hall, Chair, briefed Commission members on the work of the JISC. Version 14.2 of the Charge Code Table will be published in a few weeks. This version will include approximately 500 changes, including needed corrections to child abuse statutory citations. Also, work is about to begin on adding Uniform Jury Instructions to the Charge Code Table.

Currently, only court data and district attorney data are available on the Consolidated Offender Query (COQ). Department of Public Safety data will not be uploaded until an encryption process is built-in to the COQ. Also, DPS is updating the list of ORI

agencies and modifying user names. Underlying programs for the COQ are antiquated and it is difficult to implement changes.

**Report from the Juvenile Committee.** Bob Cleavall, Chair, briefed Commission members on the work of the Juvenile Committee. The committee received a briefing on a recent NMSC publication, “Adolescent Residential Treatment Centers: Literature Review and Issues in New Mexico” (May 2014). Alexandra Tonigan, author of the publication, summarized the elements of the report for the Juvenile Committee members. The report addresses best practices for adolescent residential treatment centers( RTC), including treatment protocols, staff-to-client ratios, training for management and staff, and facility oversight. The report also listed private and public adolescent residential treatment centers that operate in New Mexico. Public adolescent RTC’s in New Mexico currently do not serve females.

The Juvenile Committee will hold its next meeting on August 27<sup>th</sup>. That meeting will include a presentation from the Clinical Services Director for the Sequoyah Adolescent RTC.

**Report from the Sex Offender Management Board (SOMB).** Tony Ortiz, Acting Chair, briefed Commission members on the work of the SOMB. New Mexico Sentencing Commission staff continues to work on an updated sex offender recidivism study for the SOMB. The study should be completed in time for presentation at the next SOMB meeting.

On April 25th, Therese Duran, Chaplain Jose Villegas and Mr. Ortiz met with the NM Counseling and Therapy Practice Board to discuss the possibility of having that entity serve as an administrative home for proposed standards for individuals who provide treatment to adult sex offenders. The Counseling and Therapy Practice Board members noted during the meeting that express statutory authority for that board to adopt and administer such standards does not exist. The ensuing discussion then focused on a number of topics, including: 1) creating a path to certification for currently licensed mental health providers; or 2) including standards in state contracts with individuals who provide treatment to adult sex offenders. Subsequently, on May 23<sup>rd</sup> Ms. Duran, Chaplain Villegas and Mr. Ortiz met with senior management of the New Mexico Corrections Department (NMCD) to discuss the possibility of including standards in state contracts administered by the NMCD. The NMCD had also been researching the idea of including standards in contracts. The ensuing discussion focused on developing progressive standards, such as continuing education units, that could be increased over time.

Finally, Kim Chavez-Cook and Tony Ortiz briefed the SOMB on the holding in *State v. Olsson* (NM Supreme Court) (April 21, 2014), regarding units of prosecution in child pornography cases. The Supreme Court held that the legislature had not clearly defined the unit of prosecution for possession of child pornography, as the statutory language

was ambiguous and the legislative history did not offer any further clarity. Consequently, the Court relied on the rule of lenity to hold that the defendants could only be charged with one count of possession of child pornography, instead of multiple charges.

**Public Comment.** There was no public comment.

**Next meeting.** The next Sentencing Commission meeting will be held on December 9, 2014.

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