

# NEW MEXICO SENTENCING COMMISSION

## JUVENILE COMMITTEE

11:00 a.m.  
April 14, 2016

Nusenda Credit Union  
4100 Pan American Highway  
Albuquerque

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Bob Cleavall, Chair	Cindy Aragon	George Davis, CYFD	Linda Freeman
Todd Heisey	Marron Lee	Jason Rael, LOPD	Tony Ortiz
Michael Heitz, (for Monique Jacobson, CYFD Secretary)		Ronnie Lucero, APS	Amir Chapel
David Schmidt			
Gail Armstrong			
Judge John Romero			
Richard Pugh, LOPD			

**Welcome.** Bob Cleavall, Chair, called the meeting to order at 11:00 a.m. Committee members, guests and staff introduced themselves.

**Approval of minutes for the December 17, 2015 meeting.** The minutes for the previous committee meeting were approved by consensus.

**Staff Report.** Staff summarized the contents of a letter regarding an application by New Mexico leaders to the Council of State Governments (CSG) Justice Center. Chief Justice Barbara Vigil, CYFD Secretary Monique Jacobson and Sharon Stover, President of the NM Association of Counties, are signatories on the letter, which confirms their interest in participating in the CSG's Juvenile Justice Improvement Initiative. A decision by CSG on which states will be selected to participate in the initiative is expected this summer. (A copy of the above-referenced letter is in the member's files.)

Next, committee members were reminded that the Legislative Finance Committee is working on an evaluation of state-operated juvenile justice programs and systems. The evaluation will be published later this year.

**Disposition of juvenile justice-related legislation introduced during the 2016 legislative session.** The following bills were discussed:

**Senate Judiciary Committee Substitute for Senate Public Affairs Committee Substitute for House Bill 65, as amended. (Laws 2016, Chapter 2)** Increases sentences for the manufacture (basic sentence increased from nine years to twelve years), distribution (basic sentence increased from three years to eleven years) or possession (basic sentence increased from 18 months to 10 years) of child pornography. The bill includes language that provides an exemption for instances of consensual “sexting” between minors. The bill also amends Section 31-18-15 NMSA 1978, regarding the schedule of basic sentences for noncapital felonies. New felony sentencing levels are created, as follows:

- for a second degree felony for sexual exploitation of children, twelve years;
- for a third degree felony for sexual exploitation of children, eleven years; and
- for a fourth degree felony for sexual exploitation of children, ten years.

**House Floor Substitute for House Judiciary Committee Substitute for House Regulatory and Public Affairs Committee Substitute for House Bill 72, as amended. (Laws 2016, Chapter 9)** Authorizes a judge, when setting bail or other conditions of release for an adult person charged with a felony, to consider evidence presented in a previous hearing when the person was a juvenile and adjudicated as a youthful offender. The juvenile disposition and any evidence from the youthful offender proceedings may be used only if the adult person is thirty years of age or younger.

**Senate Bill 176, as amended. (Laws 2016, Chapter 64)** Provides that in an emergency placement situation, when a child must be placed in a home due to the absence of parents or custodians, the Children, Youth and Families Department shall perform a federal criminal history record check of each adult residing in the home. The child shall be removed from the home immediately if any adult resident fails to provide fingerprints or written permission to perform a federal criminal history record check.

**House Bill 29, as amended.** Authorizing local governments to enact a curfew ordinance. HB 29 passed the House and was assigned to the Senate Judiciary Committee when the session concluded.

**House Bill 30, as amended.** Providing penalties for the electronic communication of any person’s intimate parts to a child. HB 30 passed the House and was assigned to the Senate Judiciary Committee when the session concluded.

**House Bill 42, as amended.** Revises definitions in the Delinquency Act and allows for the tolling of a supervised release period when a child willfully absconds from supervised release. HB 42 passed the House and was assigned to the Senate Floor Calendar when the session concluded.

**House Bill 68.** Distinguishes penalties for negligent and intentional abuse of a child. HB 68 passed the House and was assigned to the Senate Judiciary Committee when the session concluded.

**House Bill 69.** Increases the penalty for intentional child abuse that results in death. HB 69 passed the House and was assigned to the Senate Public Affairs Committee when the session concluded.

**House Bill 121.** Revises the elements of sexual offenses committed against children. HB 121 passed the House and was assigned to the Senate Public Affairs Committee when the session concluded.

**House Bill 142.** Providing criminal penalties for assault or battery offenses committed against CYFD employees. HB 142 passed the House and was assigned to the Senate Floor Calendar when the session concluded.

**Summary of publication entitled, “Adverse Childhood Experiences in the New Mexico Juvenile Justice Population” (February 2016).** Amir Chapel summarized the study for the committee members. He noted that the report was a joint effort between Yael Cannon (UNM Law School), Dr. Andrew Hsi (UNM School of Medicine), Dr. George Davis (CYFD), and Amir Chapel and Linda Freeman (NM Sentencing Commission). Mr. Chapel described the methodology employed for the study and described the findings set forth in the report. Examples of adverse childhood experiences include: emotional abuse; physical abuse; sexual abuse; emotional neglect; physical neglect; domestic violence in the home; household substance abuse; household mental illness; parental separation or divorce; and having an incarcerated household member. An electronic copy of the report is posted on the NM Sentencing Commission’s web site: <http://nmssc.unm.edu/>

During the ensuing discussion, the following topics were discussed:

- it is likely that NMSC staff will be asked to present this report to a joint meeting of the interim legislative Courts, Corrections and Justice Committee and the Health and Human Services Committee;
- the report should also be presented at the annual Judicial Conclave and at the annual conference sponsored by the Children’s Law Institute;
- the report may inform the development of programming that addresses early childhood trauma.

**Development of committee work plan for the 2016 interim.** The following topics were raised as possible work plan items during the 2016 interim:

- ask for a briefing on the implementation of a new probation form that will be rolled-out on a trial basis this year;
- review the Compulsory School Attendance Law and invite stakeholders to brief the committee on possible revisions to that statute;
- the Eddy county juvenile detention center located in Carlsbad has closed and several committee members expressed interest in knowing what arrangements have been made for youth in Eddy county since the closure;
- review statutory provisions for youthful offenders and serious youthful offenders in the Children’s Code;
- review and discuss juvenile justice-related bills likely to be introduced during the 2017 legislative session; and
- ask for a briefing on the “Pull Together” community engagement effort initiated by CYFD.

**Next meeting.** Staff will poll the committee members regarding a date and time for the next meeting.

**Adjourn.** The meeting adjourned at 1:15 p.m.