

NEW MEXICO SENTENCING COMMISSION

REFORM COMMITTEE

10:00 a.m.
September 23, 2019

Administrative Office of the Courts,
Conference Room
237 Don Gaspar
Santa Fe, NM 87501

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Angela "Spence" Pacheco, Chair	April Land (UNMSOL)	Shammara Henderson (NMSC Chair) (on phone)	Linda Freeman
Collin Brennan (AGO)	Mike Lilley (on phone)	Megan Dorsey	Douglas Carver (on phone)
Karl Brooks (AOC)		Francine Garcia (NMCD)	Nicole Devereaux
Kim Chavez Cook (LOPD)		Melanie Martinez (NMCD)	
Mark Donatelli		Ellen Rabin (LFC)	
Alisha Tafoya Lucero (NMCD)		Mark Probasco (AGO)	
Clint Wellborn (AODA)		Jonathan Gardner (AGO)	

I. Welcome and Introductions. Angela Pacheco, Chair, called the meeting to order at 10:10 a.m.

II. Approval of minutes from September 9, 2019 meeting. The minutes were approved by voice vote.

III. Staff report.

Douglas Carver, Deputy Director, New Mexico Sentencing Commission (NMSC), informed the committee that he had been able to find the 1986 report on revisions to the New Mexico Criminal Code drafted by a committee chaired by Prof. Leo Romero of the University of New Mexico School of Law. He will get copies made and distributed to the committee.

Linda Freeman, Executive Director, NMSC, introduced new NMSC Research Scientist Nicole Devereaux. Ms. Devereaux discussed the Probation and Parole literature review she wrote for the

committee. Chair Pacheco posed questions about the COMPAS Risk and Needs Assessment System to the New Mexico Corrections Department (NMCD). NMCD discussed the evidenced-based nature of COMPAS, the process to validate the tool, and an overview of how the tool is administered.

IV. Discussion of pending reforms to Probation and Parole processes.

The committee continued to discuss the pending reforms to the probation and parole processes. Members of the committee inquired whether other states had a two-tiered system of probation or parole. NMCD staff said they would research the matter. Members of the committee mentioned that North Carolina has a system that might be similar, one that includes a mechanism for advanced supervised release. Executive Director Freeman noted that New Mexico has a unique system whereunder many people are under dual supervision, being supervised under the parole and the probation regimes simultaneously.

Most of the committee's discussion centered on the mechanics of a two-tiered probation and parole system. The Attorney General's Office met with Rep. Antonio Maestas to discuss the bill, and presented the changes they had suggested to the Representative to the committee. There were particular concerns among committee members regarding people convicted of offenses that require registration under the Sex Offender Registration and Notification Act, those convicted of a domestic violence offense, and those convicted of driving under the influence of intoxicating liquor or drugs. There were also concerns with how absconding would be treated.

There was a general consensus that the two-tiered system of probation and parole was generally acceptable – though the Administrative Office of the Courts noted that they would have to check with the Supreme Court before committing to that approach. Despite this general agreement, there were a number of concerns about how the two-tiered approach would work. Some members wanted to have a system that avoided incarceration for technical violations for parole in both tiers of the system, while others thought that there had to be a point where technical violations mandated a term of reincarceration. Some members wished to separate the two tiers by specific crimes, rather than general categories of crimes. Members expressed concern that they did not want any changes to undermine what NMCD was already doing or undermine COMPAS. A concern was raised that if judges lose their discretion on delineating conditions of release, they might not continue to place people on probation. Members noted that for certain classes of offender, judicial discretion would be greater under a tiered system.

There was discussion of whether or in what manner technical violations were tracked in the state's criminal justice system; from the discussion it did not seem that there was a proper tracking mechanism for technical violations.

Members of the committee expressed their desire for a compromise solution, despite the differences expressed during the meeting. There was general agreement that violations of probation or parole were handled differently in different parts of the state, with some judges having a zero-tolerance approach, while others took a different approach. There was also discussion concerning the fact that probation and parole officers in different districts took different approaches. There was discussion of whether there was a need to codify present practices, as there was a certain leniency or toleration evident in the present system as practiced.

Members of the committee noted that the kinds of discussion the committee has been undertaking concerning probation and parole reform were the ones the Governor had stated she wished would occur in her veto message for HB 564.

The committee expressed the wish to have a report to present to the Courts, Corrections, and Justice interim committee. Mr. Carver offered to draft a summary of where the committee seemed to have achieved consensus, where the committee had strong disagreements, and where there were grey areas.

IV. Next meeting. The committee scheduled its next meeting for October 7, 2019; the committee plans to meet every two weeks.

V. Adjourn. The meeting adjourned at 11:49 a.m.