

STRATEGIC PLAN

New Mexico Sentencing Commission

Agency 35400

**Prepared for the FY 2010 Appropriation Request
Covering the period July 1, 2009 through June
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2808 Central Avenue SE
Albuquerque, NM 87106
(505) 277-3494
<http://nmsc.unm.edu/>

June 2008

**New Mexico Sentencing Commission
Sex Offender Management Board
Justice Information Sharing Council**

Research Publications and Current Projects and Accomplishments

- The expert and public members of the NMSC, SOMB and JISC meet numerous times each year (over 50 meetings held in FY08)
These meetings provide an essential forum of coordination among and between all three branches of government and all New Mexico agencies involved in the adult or juvenile justice systems. They include short and long term planning for adult and juvenile justice issues.
- NMSC completed “A Workload Assessment Study for the New Mexico Judiciary, District Attorneys and the Public Defender Department. The study was presented to the Legislative Finance Committee in July 2007 and to the Courts, Corrections and Justice Committee in October 2007.
This is the first such study in the nation that simultaneously involves these three criminal justice entities and will enable legislators to accurately assess the resource needs of the D.A., P.D. and Judiciary. LFC and DFA analysts were able to utilize this study in making their FY08 budget recommendations for these three large entities. NMSC staff will refresh the resource needs information in this study in subsequent years
- SOMB staff Randall Cherry founded and co-chairs the *National Sex Offender Management Symposium*. Many sex offender experts and criminal justice professionals, including representatives from twenty states and members of the federal government now make up this group.
This provides coordination of resources and sharing of information between states and may help put New Mexico in the lead in the complex field of sex offender management. This organization fills a significant gap in information sharing among all of the states. It is also essential when making decisions that involve the cost and benefit of enacting certain federal sex offender legislation with the amount of federal Byrne grant dollars that the state may or may not receive.
- NMSC published *Analysis and Position on Criminal and Juvenile Bills Introduced during the 2008 Legislative Session* (published twice weekly during Legislative Session)
The NMSC bill analysis lists nearly every criminal and juvenile justice bill introduced each session and provides the NMSC position and rationale on those bills to legislators and legislative analysts.
- The NMSC Web site continues to average over 400,000 hits per month – most hits are related to use of adult and juvenile resource directories.
This web site enables juvenile and adult probation officers, as well as the public to quickly locate treatment facilities, law enforcement, jails and related agencies.
- SB 21 (2006) developed and shepherded to enactment by the NMSC, authorized non-violent offenders to receive Earned Meritorious Deductions (“good time”) during their initial 60 days in the NM prison system. NMSC researchers estimate an annual, recurring

savings to the state of \$1.8 million.

- HB 80 (2006) The Equitable Schedule of Offenses for Property Offenses legislation, which was also developed and shepherded through passage into law by the NMSC, standardized the misdemeanor/felony threshold for many property offenses (and may have kept non violent property offenses out of the NM Corrections system.
- NMSC was asked in House Bill 109 (2008) to convene a task force and study collateral consequences of arrest, conviction and incarceration.
- NMSC was asked in House Bill 49 (2008) to study the extent of use of de novo appeals from DWI cases tried in the magistrate courts.
- SOMB lobbied for and monitored NMDOH use of 2006 funding to fully staff the Sex Offender Treatment Program (“STOP”) in Las Vegas, New Mexico.
This increased government efficiency by fully utilizing all 24 STOP beds. This work increased public safety by increasing the availability of secure, residential treatment beds for sex offenders. This full use of the STOP facility continues to this day.
- At the request of LFC, researched and published *Diagnostic Evaluation: Alternatives to Current Law and Practice*

This study reviews the continuing need for the New Mexico Corrections Department to perform diagnostic evaluations, including an assessment of the results of existing evaluations, actual costs incurred by the department, other financing options, and alternative settings for the evaluation-- such as county detention facilities.

NMSC Data Update

- NMSC has produced and published a CD ROM of the *Expanded Juvenile Justice Inventory* for CYFD and the Public Education Department in addition to our on-line version for all state agencies and the public. We have merged the NMSC resource directory and the CYFD juvenile justice program resource directory information into one complete directory. During FY2008, this CD was distributed by PED to schools throughout New Mexico.
The distribution of this comprehensive juvenile justice information will help teachers, counselors and juvenile justice professionals find services for youth perhaps before situations rise to the level of crisis or criminality.
- NMSC annually re-publishes an updated, on-line *Directory of Adult Criminal Justice Programs*.
These directories are now web based and searchable and show what service programs are available in detail (name, telephone, location, e-mail address, and by location (county and city) and subject (Corrections, courts, law enforcement, public services, etc.)

We annually verify each entry for accuracy, which provides a trustworthy source available to New Mexico agencies looking for help with the needs of their clients.
- NMSC Published *Time Served in New Mexico Prisons FY2007: Analysis of the Impact of EMD*. This statutorily-required report is published each year and requires NMSC staff to

hand collect, enter and reviews good time figuring sheets.

This report provides policy makers with a detailed look at how long offenders are serving for several categories of crime.

Such information helps criminal justice agencies adjust processes in the present as well as plan for the future. Specifically, providing feedback on the percentage of their sentences served for both violent and non-violent offenders ensures maximum efficiency in the system.

- NMSC produced and annually updates and maintains the *Uniform Charge Code Table*. This Table is now incorporated into District Attorney's central database and by the Department of Public Safety in its Automated Fingerprint Identification System, the CYFD case management system and will be incorporated into the judiciary's case management system in the FY08-FY09 roll out. It is also utilized in the TraCs automated traffic citation system.
Use of the same charging code among all agencies will result in significant increased accuracy of data and tracking of criminals.
- NMSC published *Cost of Housing Arrestees Held on Felony Charges*. *This report provided the Legislature – for the first time - with actual and unbiased information about the cost of housing felony offenders in county jails.*

Sex Offender Management Board

Residency Restrictions

The SOMB recently published on-line its formal position paper on the implementation of residency restrictions for sex offenders. The SOMB concluded that it is not in the best interest of New Mexico to place legal restrictions on where convicted sex offenders may reside. The SOMB believes that offenders are safer when they have jobs, homes, friends and family, and access to treatment. Imposing blanket restrictions has had a destabilizing impact in every jurisdiction where it has been implemented and most experts (including law enforcement) believe that it is dangerous and counterproductive.

Sex Offender Treatment

Randall Cherry regularly attends monthly meetings with juvenile sex offender treatment professionals. They brief him on current issues and concerns which he relates to the SOMB members. He continues to work with them to develop standards for the treatment and supervision of offenders, which he is currently working on with CYFD personnel.

Randall Cherry is currently meeting with personnel from the treatment community, Value Options and CYFD to determine how to best utilize limited treatment and supervision resources.

Adult Parole Board and GPS Monitoring

Randall Cherry meets regularly in person and by telephone with Parole Board personnel to discuss sex offender supervision issues, including the cost versus effectiveness of recently-mandated GPS monitoring.

SOMB Treatment and Guidelines Subcommittees

SOMB subcommittees meet monthly to develop treatment standards, risk assessment tool and supervision guidelines.

An SOMB subcommittee is currently meeting to analyze new federal laws regarding sex offender registration and to recommend amendments to New Mexico law as it deems appropriate to comply with or reject the federal guidelines.

NMSC and SOMB staff were asked by the Legislature to study the Feasibility and Appropriateness of Including the Crime of Aggravated Stalking when the Victim is Less Than Sixteen Years of Age as a Sex Offense for Purposes of the Sex Offender Registration and Notification Act.

This SOMB has studied review this issue and will report to the legislature on the need (or not) of including Aggravated Stalking when the Victim is Less Than Sixteen Years of Age.

Updating the Legislature

NMSC staff, including Randall Cherry, Mike Hall and Tony Ortiz annually present SOMB updates to the Courts, Corrections and Justice Interim Committee and meet regularly with the Chairman of Senate Judiciary Committee to brief him on current criminal justice issues in New Mexico.

Justice Information Sharing Council (JISC)

- NMSC is the host of the Justice Information Sharing Council (JISC) - obtained recurring base budget for JISC (\$150.0) during the 2007 Legislative Session.
Base budget ensures the continuation of the JISC and Consolidated Offender Query (COQ) and will also make possible:
 - Enhancements to the system by adding Interlock alert and Domestic Violence Tab
 - Revamped internal filtering flow process to be more efficient for future enhancements
 - Developing of e-data transfer from Courts to District Attorneys
 - Developing e-data transfer from District Attorneys DPS Crime Lab
- During FY2008, JISC staff upgraded the JISC COQ server and added the base version of Secure Socket Layer (SSL).
Use of SSL maintains the security of the COQ and is the first step in including police data on the COQ
- The JISC Consolidated Offender Query (COQ) is now being used by almost 3,000 state justice personnel, including DPS, Bernalillo Sheriff, Dona Ana sheriff and Las Cruces PD, municipal courts, all DA offices, all Public Defender offices, some Native American law enforcement officers, APD investigator units, narcotics units, CYFD and Corrections Department and others. During FY2008, Child Protective Services Division of CYFD began using the COQ to conduct immediate investigations of protective placement locations for abused or neglected children.
This single source of information gets the full picture of all New Mexico offenders (including actual pictures) to all justice personnel. The COQ is now the only system that allows criminal agencies outside of the courts to see the juvenile information, Social Security numbers and Domestic Violence Protective Orders.

This system decreases the time that officers or dispatchers have to call the courts for information and also increases the efficiency of the officers.

- Enhanced COQ now includes Domestic Violence Tab and DWI interlock order alert. *This is the first time that DWI Ignition Interlock orders by judges and DWI cases can be seen by officers together in one place. This will improve the public safety.*
- JISC staff have completed the victim notification process for the District Attorney's to share information between parole boards and the DA Victim Advocacy group
- Create Proxy machine for www.nmjustice.net to be used incase of communication issue. In the future the proxy will serve as back up system for redundancy
- JISC includes Native American representation and is working on sharing data with Acoma, Isleta, Laguna and Zuni pueblos, *thus making New Mexico the first state to commence tribal-state data sharing. Zuni and Acoma are the first two pueblos to share DWI and Domestic Violence data with the State through the COQ.*

Inclusion of tribal DWI and Domestic Violence on the COQ will increase public safety by giving prosecutors the full picture of a defendant's DWI and criminal history.

Other JISC Activities:

- Working with NM Attorney General, CYFD and State Police on automated abuse and neglect case tracking.
- JISC staff is working with the NM Attorney General's Office on a Violence Against Women Act-funded project to automate the process of Emergency Protective Orders. *This will be the beginning of the victim and petitioner notification process for the State of New Mexico.*
- Reporting function will allow LEO to run Warrant report by county, ERO issued by judges and any specific reports agreed on between agencies including XML data request for Analysis by NMSC.

The main benefit for the JISC and COQ is to have a SINGLE URL for police officers, Probation, Parole, DAs and other justice personnel to use for their INPUT and Query.

NMSC Research Projects

NMSC is currently:

- Studying the outcomes of DWI drug courts in Bernalillo Metropolitan Court report *This study will help the LFC and DWI determine the effectiveness of these DWI drug courts*
- Updating its *Controlled Early Release* report. This report, first produced at the request of LFC in 2006, indicates how many Corrections Department inmates would be eligible for controlled early release. *This report enables LFC and DFA to make a cost/benefit analysis of early release of non-violent inmates versus increased prison beds.*
- Conducting a Sex Offender Treatment Literature Review and Recidivism study of the STOP program in Las Vegas.

This study will give law and policy makers direct outcome data on the effectiveness of the STOP (Sex Offender Treatment) Program in Las Vegas and will provide the most accurate and current information available on this complex public safety issue.

- Conducting a study to determine how Domestic Violence cases flow through the justice system and where problems may be occurring.
This study, funded with \$12,000 in federal Violence Against Women Act funds, will help New Mexico police, DAs and courts determine if process improvement is needed in Domestic Violence felony cases.
- Completed a study of Probation and Parole (HJM 61, 2007): caseloads for Adult Probation and Parole Officers, starting salaries for Adult Probation and Parole Officers, competing salaries for similar employment in New Mexico, retention of Adult Probation and Parole Offices, vacancy rates, and national standards for caseloads.
This study, delivered to the LFC and DFA in early 2008, provided key fiscal and policy-making information. As prison populations continue to grow and judges look to non-prison options, New Mexico must have a Probation and Parole Division that can handle the increasing numbers and scope of duties.
- EMD Study and Report
Each year the NMSC is required by statute to review NM Corrections Department Good Time Figuring Sheets for released inmates to determine to what extent violent inmates are completing 85% of their sentences and non-violent inmates are completing 50% of their sentences.
This mandated study informs lawmakers of the compliance with and effectiveness of Serious Violent Offender laws (“Truth in Sentencing”)
- New Mexico County Jail Research for DFA
This annual study provides accurate and unbiased data of the number of felony offenders housed in county facilities and is used to annually provide DFA with the distribution formula for the \$5 million funding in House Bill 2.
- Biased Based Policing Study (HB 942)
This study will help New Mexico determine if there is any pattern of biased policing taking place and, if so, what steps might be taken to prevent it.
- Gender Specific Probation and Parole Models Study (HB 527)
Experts agree that women have different avenues into the criminal justice systems and different needs while incarcerated and after release.
This study will provide New Mexico with the current “best practices” in the area of probation and parole for women.
- Services and Programs that Support Offender Rehabilitation and Reintegration and Reduce the Incidence of Recidivism Research (HM 68)
This study, delivered to the LFC and DFA in Spring, 2008, provides New Mexico policy makers with a list of alternatives to incarceration, as the first step in determining and possibly creating a range of Offender Rehabilitation and Reintegration programs.
- NMSC conducts both ad hoc and ongoing analysis of data sets from DPS, CYFD, DA’s, and AOC.

- NMSC conducted extensive research for the Courts, Corrections and Justice Interim Committee, working in collaboration with the NMCD, to develop a profile of inmates committed to the NMCD. This report was delivered to Legislative Counsel Service in March, 2008.
- NMSC staff provides narrative information, data and analysis to LFC performance auditors.
- Assisted in training session on research methodologies for LFC audit staff.

Task Force and Committees Served by NMSC Staff

NMSC staff members are also members of and/or provide key data, analysis and service to several state and local criminal justice task forces such as:

Governor's Prison Reform Task Force
 Attorney General's Corrections Oversight Task Force
 Several Domestic Violence task forces and working groups
 The Association of Counties Detention Center Affiliate
 State Traffic Records Executive Committee
 Mid-Region Council of Governments Methamphetamine Task Force

Usage data report to support that JISC Consolidated Offender Query (COQ).

The COQ has become a mission-critical tool for criminal justice agencies. Usage jumped in July 2007 due to the legislation that prohibited youth information on any public web site (the COQ is not a public web site). Usage jumped again in early 2008 due to removal of Domestic Violence cases from public web sites. Public Defender and District Attorneys immediately switched to COQ for offender lookup.

Usage of the COQ has gone from an average 90,000 hits per month in 2007 to nearly 200,000 hits per months in 2008.

EXECUTIVE SUMMARY

This strategic plan, covering detailed activity plans for fiscal year 2010, in addition to plans for later fiscal years, was compiled by the executive staff of the New Mexico Sentencing Commission (hereafter referred to as NMSC or Commission). The strategic plan was reviewed by Commission members and has been approved by the Full Commission. The focus and activities of the Commission and its contract staff have grown each year since 2003.

MISSION STATEMENTS AND OVERVIEW

Mission Statements

Sentencing Commission

The New Mexico Sentencing Commission's mission is to provide information, analysis, recommendations and assistance from a coordinated cross-agency perspective to the three branches of government and interested citizens so they have the resources they need to make policy decisions that benefit the criminal and juvenile justice systems.

Sex Offender Management Board

The NMSC also contains the New Mexico Sex Offender Management Board (SOMB), which became effective on February 5, 2004, after "Marissa's Law" was signed by Governor Richardson. The mission of the SOMB is to develop and recommend to the New Mexico Sentencing Commission best practices in the management and treatment of both adult and juvenile sex offenders for the protection and prevention of current and future victims.

Justice Information Sharing Council

Beginning July 1, 2005, NMSC serves as administrative and fiscal lead agency for the Justice Information Sharing Council (JISC), formerly known as the Criminal Justice Information Management Team (CJIMT). The mission of JISC is to devise, develop, and maintain an integrated justice information system to support the efficient sharing and use of critical justice information at the municipal, county and state levels.

The Information Technology Plan for JISC will be attached to this NMSC Strategic Plan. The overlapping missions of JISC and the NMSC, especially the NMSC Data Committee, make this a cost and time-efficient strategy for New Mexico.

- The NMSC has statutory duties to conduct research and make recommendations to the Executive and Legislature.
- Through its data and research component, the NMSC makes and publishes objective findings about the state of both criminal and juvenile justice in New Mexico and what laws and procedures would comprise "best practices".
- In making recommendations for change, the NMSC will always attempt to:
 - a) treat the New Mexico criminal and juvenile justice system as a system and take every related agency, branch and component into account;
 - b) recommend sanctions that are equitable and uniform in both approach and result; and
 - c) make recommendations on the basis of rationality.

Statutory Authority: The NMSC began its activities in September 1995 (as the former CJCC). After House Bill 510 became law following the 2003 legislative session, the name was changed

to New Mexico Sentencing Commission and the agency was given greatly expanded duties. These are the statutes applicable to the Commission's activities:

9-3-10. New Mexico Sentencing Commission; creation; membership; duties.

D. The New Mexico sentencing commission shall:

- (1) *hold meetings at times and for periods as the commission deems necessary;*
NMSC, SOMB and JISC holds over 50 scheduled public meetings each year
- (2) *hire staff as needed to assist the Commission in the performance of its duties;*
NMSC, SOMB and JISC staff all work as University of New Mexico employees. We have 5 Full Time and 5 Part Time staff. Due to the flexibility of UNM's employment, these part time staff members are on NMSC payroll from as little as .1 FTE up to .75 FTE. We also employ and train between 4 and 10 UNM undergrad, graduate and law students throughout the academic year.
- (3) *prepare an annual budget;*
The NMSC prepares the annual budget for NMSC, SOMB and JISC.
- (4) *establish policies for the operation of the New Mexico sentencing commission and supervision of the activities of commission staff;*
All NMSC, SOMB and JISC staff work under the direction of the Commission Chair and its Executive Committee.
- (5) *advise the executive, judicial and legislative branches of government on policy matters relating to criminal and juvenile justice;*
The NMSC continues to increase its role in providing data, reports and advice to the executive, judicial and legislative branches. We attend and testify at all related hearings including LFC, Courts, Corrections and Justice Interim Committee, House and Senate Judiciary as well as the Supreme Court Criminal Justice Task Force and numerous other task forces and state committees.
- (6) *make recommendations to the legislature concerning proposed changes to laws relating to the criminal and juvenile justice systems that the commission determines would improve those systems;*
During each interim and throughout each legislative session the NMSC and SOMB make recommendations to the legislature and to the executive on all proposed legislation. The NMSC Legislative Committee meets weekly during each session and reviews and votes on every single criminal or juvenile-related bill, based on data and analysis provided by NMSC and SOMB staff. A summary document detailing the bills and the Commission's position on each is distributed to legislators, legislative staff, agency representatives and others upon request. The summary is available on the Commission's web site. Commission members and staff also attend legislative hearings during the session and provide objective information from a cross-agency perspective for bills under consideration.
- (7) *annually assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on state and local correctional resources and programs and the need for further sentencing reform;*
Beginning with the *Impact of Proposed Changes to Earned Meritorious Deduction* (EMD) report delivered to the LFC prior to the 2006 session, the NMSC will continue to

provide quantitative and fiscal impact of prospective legislation.

- (8) *when developing proposed sentencing reform:*
- a. *study sentencing models in other jurisdictions;*
 - b. *study the Criminal Sentencing Act, the Criminal Code and all other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure and probation and parole;*
 - c. *review past studies or reports regarding proposed changes to the Children's Code, the Criminal Code, the Criminal Sentencing Act or other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure or probation and parole;*
 - d. *study past and current criminal sentencing and release practices and create a statistical database for simulating the impact of various sentencing policies;*
 - e. *study the full range of prison, non-prison and intermediate sanctions;*
 - f. *determine the principal purpose for criminal sanctions;*
 - g. *rank criminal offenses by degree of seriousness;*
 - h. *determine the role of criminal history in making criminal sentencing decisions;*
 - i. *define dispositional policy that determines when adult felony offenders are confined in state prisons and county jails or sentenced to non-prison and intermediate sanctions;*
 - j. *establish the length of criminal sentences;*
 - k. *establish the appropriate use of community service and fines;*
 - l. *structure proposed sentencing guidelines to assure consistency in all aspects of criminal sentencing policy;*
 - m. *assess the impact of commission recommendations to modify criminal sentencing policy on the availability of and need for correctional resources and programs;*
 - n. *use the expertise of a national or state organization with experience in sentencing reform; and*
 - o. *present proposed legislation or recommendations regarding sentencing reform to the appropriate legislative interim committee*

The NMSC and SOMB work constantly to do the work and analysis provided for in this section of statute. We work with both state and national groups of experts, including the National Association of State Sentencing Commissions, the Vera Institute of Justice, the Bureau of Justice Statistics, the National Center for Disease Control, the Association for the Treatment of Sexual Abusers, the National Adolescent Perpetration Network, and national, state and local experts.

We have presented proposed legislation and recommendations regarding sentencing reform to the Courts, Corrections and Justice Legislative Interim Committee. Several bills recommended by the NMSC or SOMB have passed through both houses and been signed into law.

- (9) *monitor any enacted sentencing guidelines with respect to uniformity and proportionality;*
[See comment after (10)]
- (10) *conduct research relating to the use and effectiveness of any enacted guidelines, prosecution standards, offense charging, plea bargaining, sentencing practices, probation and parole practices and any other matters relating to the criminal justice system;*

For Sections (9) and (10) :

New Mexico does not have sentencing guidelines. The NMSC has consistently elected not to recommend promulgation of sentencing guidelines in light of the extremely costly experience of many guidelines-based states. For FY 06, the NMSC published the *Sentencing Patterns Report* based on Corrections Department data and *Arrest Patterns Report* based on Dept. of Public Safety. The NMSC has updated those reports since. We now utilize a larger set of data from the Judiciary and will utilize that to expand on these analyses of sentencing and arrest patterns.

- (11) *serve as a clearinghouse for the systematic collection, analysis and dissemination of information relating to felony offense charges, plea agreements, convictions, sentences imposed, incarceration time actually served and actual and projected inmate population in the state correctional system;*

NMSC, SOMB and JISC continue to gather, maintain and analyze more and more criminal and juvenile justice data. We annually publish *Time Served in New Mexico Prisons: Analysis of the Impact of EMD*. The NMSC annually updates and maintains the *Uniform Charge Code Table*, which DA's and CYFD utilize in order to have uniform charging data. We also published and continue to update *Cost of Housing Arrestees Held on Felony Charge* and *Length of Stay for Arrestees Held on Felony Charges*.

In accordance with statute, the NMSC promulgated a rule regarding data collection. The rule is compiled in the New Mexico Administrative Code (See Title 10, Chapter 14)

The inclusion of the JISC and its Consolidated Offender Query have further expanded NMSC access to data and have shortened the time required to access and analyze data

- (12) *review all proposed legislation that creates a new criminal offense, changes the classification of an offense or changes the range of punishments for an offense and make recommendations to the legislature as to whether proposed changes would improve the criminal and juvenile justice system; and*

The NMSC and SOMB make recommendations to the legislature and to the executive on all proposed criminal or juvenile legislation. The NMSC Legislative Committee meets weekly during each session and reviews and votes on every single criminal or juvenile related bill, based on data and analysis provided by NMSC and SOMB staff. We publish the committees' recommendations on our web site during the session and share that information with LFC, DFA and committee analysts.

- (13) *contingent upon the availability of funding, provide impact estimates, incorporating prison population projections, on all proposed legislation that has the potential to affect correctional resources.*

Currently, the Corrections Department has outside consultants who assist NMCD in prison population projections. The NMSC has responded to requests from NMCD itself and from the LFC for specific prison population projections.

Senate Memorial 47 (2008 Legislature) instructed the Legislative Finance Committee (LFC), the Department of Finance and Administration (DFA) and the NM Sentencing Commission (NMSC or Commission) to collaborate and look at the feasibility of devising a method of measuring the fiscal impact of legislation that increases or decreases criminal penalties, creates new crimes, imposes or removes mandatory minimum terms or imprisonment, requires specific technology

for monitoring probationers or parolees or modifies the law in such a way that the time served in prison or on probation or parole increases or decreases. The NMSC issued a final report based on SM47 which included an estimate \$176.0 budget increase to provide the analysis sought in the Memorial.

SEX OFFENDER MANAGEMENT BOARD

The number of NMSC members, number of meetings held, mileage and per diem paid as well as the list of statutory duties of the NMSC have greatly increased as a result of the creation of the Sex Offender Management Board during the 2003 Special Session (See Section 9-3-13 NMSA 1978).

9- 3-13. Sex Offender Management Board

A. There is created within the New Mexico sentencing commission the "sex offender management board". Members of the sex offender management board who are not members of the New Mexico sentencing commission, whose membership is set forth in Section 9-3-10 NMSA 1978, shall not be voting members of the New Mexico sentencing commission.

B. The sex offender management board shall be composed of the following members:

(1) the attorney general or designee;
(2) a district attorney appointed by the district attorneys association of New Mexico;
(3) the chief public defender or designee;
(4) a district court judge appointed by the district court judge's association of New Mexico;

(5) the secretary of corrections or designee;
(6) the secretary of health or designee;
(7) the secretary of children, youth and families or designee;
(8) the secretary of public safety or designee;
(9) the secretary of public education or designee;
(10) the secretary of Indian affairs or designee;
(11) one public member appointed by the governor who is a board member of a New Mexico victims organization;

(12) two representatives appointed by the governor who are mental health professionals licensed to practice in New Mexico. One of the mental health professionals shall be a member of the association for the treatment of sexual abusers and one shall be a juvenile sex offender treatment specialist;

(13) a representative appointed by the governor from the adult probation and parole division of the corrections department who has expertise in the supervision of sex offenders;

(14) a representative appointed by the governor from the law enforcement community who has expertise regarding sex offender community notification, registration, tracking and monitoring;

(15) a representative appointed by the governor who is affiliated with a civil liberties organization; and

(16) a representative appointed by the governor who is affiliated with a faith-based organization.

C. The sex offender management board shall report its findings and recommendations to the New Mexico sentencing commission on a quarterly basis. The New Mexico sentencing commission shall vote to approve, disapprove or revise the recommendations of the board.

D. The sex offender management board shall:

(1) hold meetings at times and for periods as the board deems necessary to accomplish its objectives, but shall meet at least eight times a year;

(2) develop and prescribe a standard procedure for the identification and evaluation of convicted sex offenders. The procedure shall include behavior management, monitoring, treatment and program compliance for sex offenders. The board shall develop and recommend measures of success;

(3) develop and recommend guidelines and standards for the treatment of sex offenders that can be utilized by offenders who are placed on probation, incarcerated with the corrections department, placed on parole or placed in a community corrections program. The guidelines and standards shall include a monitoring process and a plan for developing treatment programs for sex offenders, including determining the duration, terms and conditions of probation and parole for sex offenders;

(4) create a risk assessment screening tool and program to assist sentencing of sex offenders, including determining the duration, terms and conditions of probation and parole for sex offenders;

(5) develop guidelines and standards for monitoring sex offenders who are undergoing evaluation or treatment, including behavioral monitoring;

(6) develop criteria for measuring a sex offender's progress in treatment programs. The parole board shall use the criteria approved by the New Mexico sentencing commission to determine whether a sex offender may appropriately be discharged from parole;

(7) develop a standardized procedure for the identification and evaluation of juvenile sex offenders. The procedure shall include behavior management, monitoring, treatment and program compliance for juvenile sex offenders. The board shall develop and implement measures of success;

(8) develop and recommend guidelines and standards for the treatment of juvenile sex offenders who are placed on probation, committed to a state agency, placed on parole or placed in a community corrections program;

(9) research and analyze safety issues raised when sex offenders live in a community;

(10) study and consider the viability and legality of a civil commitment program for sex offenders;

(11) research and determine the feasibility and legality of implementing indeterminate sentencing for sex offenders;

(12) study the use of clinical polygraph testing as a means to evaluate sex offenders;

(13) evaluate sex offender treatment programs administered by state agencies and recommend changes, if needed, in those treatment programs; and

(14) review the provisions of the Sex Offender Notification and Registration Act and recommend changes, if needed, to that act.

SOMB Activities:

The Chairman of the SOMB reports to the Full NMSC at each of its meetings on the current activities of the SOMB. He also presents the SOMB's recommendations on various issues and legislation. The SOMB recommended amendments to the Sex Offender Registration Act in the 2005 regular legislative session. In 2006, the Board successfully sought additional funding for additional beds at the Sex Offender Treatment Program (STOP) located at the New Mexico Behavioral Health Institute in Las Vegas, N.M. In 2007, the SOMB has monitored spending regarding this additional funding. After significant delays, the Department of Health has assured SOMB staff that the funds would be properly expended. The STOP Program is now fully operational with 24 treatment beds serviced by expanded line staff and four full-time treatment professionals.

In 2007, the SOMB recommended lifetime registration, life imprisonment and lifetime supervision for certain high-risk sex offenders. This recommendation was enacted in SB528. SB528 also incorporated clean-up language recommended by SOMB regarding parole, including specifically designating the Attorney General to represent the state in parole extension hearings.

In 2007, the Board recommended expanding the SOMB to include the Secretary of Public Education and the Secretary of Indian Affairs. This recommendation was enacted in HB61.

The SOMB recommended enhanced sex offender supervision guidelines for use by the probation and parole department to the NMSC in December, 2006 and May, 2007. After a long discussion, the NMSC accepted the guidelines in principle, but requested that the SOMB reconsider language in certain sections. The SOMB will review the NMSC suggestions in June, 2007.

The SOMB appointed a subcommittee to review the sex offender supervision guidelines in light of the concerns expressed by members of the NMSC. The subcommittee met and recommended amendments to the SOMB to address the NMSC comments. A member of the NMSC met with the SOMB and, while recognizing the changes approved by the Board, expressed continuing concern regarding provisions specifically addressing family reunification. The Board appointed another subcommittee to specifically address this issue. The subcommittee included members of the NMSC acting in an advisory capacity. This subcommittee met through the spring of 2008 and proposed amendments to address the NMSC concerns. The SOMB considered the proposals at its meeting on March 20, 2008, and referred the proposals to the Guidelines Subcommittee for review and its recommendations. The Guidelines subcommittee considered the proposals on May 28, 2008, and concluded that its recommendation to the full SOMB was to re-submit the supervision guidelines in their original form to the NMSC for its reconsideration. The subcommittee cited its continuing concerns that there is insufficient evidence to prove that sex offenders who have not been convicted of offenses against children are not, in fact, a danger to children. The subcommittee concluded that its first concern must be public safety, and a strict standard should be in place until sufficient evidence supports a different approach. The full SOMB considered the recommendation of the subcommittee and voted to re-submit the supervision guidelines to the NMSC in the form recommended by the Guidelines Subcommittee. The SOMB issued a formal position paper in 2007 regarding restrictions on where a sex offender may reside. After research and discussion, the Board concluded that imposing such restrictions does not enhance public safety and is not in the best interest of the citizens of New Mexico. The SOMB considered in 2007 whether the offense of aggravated stalking of a minor should be added to the list of predicated offenses for which a person should be required to register pursuant to the Sex Offender Registration and Notification Act (Sections 29-11A-1, *et.seq.* NMSA 1978). The Board did not reach a final determination and appointed a subcommittee to specifically consider the issue in 2008. The subcommittee has met, but awaits publication of the final guidelines from the Department of Justice regarding the federal Adam Walsh Act before making its recommendation, as the guidelines may influence its conclusions.

SOMB Legislative Mandates:

D. The sex offender management board shall:

(1) hold meetings at times and for periods as the board deems necessary to accomplish its objectives, but shall meet at least eight times a year;

The SOMB meets in various subcommittees and workgroups regarding treatment and supervision of adult and juvenile sex offenders at least once per month from April through December. The Board also meets not less than eight times per year in full committee to review and direct the activities of the subcommittees and workgroups. The SOMB will continue this practice in FY 2010. (See additional discussion below).

(2) develop and prescribe a standard procedure for the identification and evaluation of convicted sex offenders. The procedure shall include behavior management, monitoring, treatment and program compliance for sex offenders. The board shall develop and recommend measures of success;

The current Sex Offender Registration and Notification Act (SORNA) provides for the identification and monitoring convicted sex offenders in the community. The SOMB continuously monitors changes in federal law and recommends amendments as necessary to ensure that New Mexico remains in compliance with federal law. Congress passed Public Law 109-248, the Adam Walsh Act, and it was signed into law on July 27, 2006. Adam Walsh made numerous changes to federal laws regarding sex offender registration and notification, primarily creating a national sex offender registry. The SOMB reviewed the Act in 2006 and 2007, but concluded not to propose compliance legislation in 2007 because the Department of Justice had not issued the final guidelines that would impact that legislation. The SOMB formed a subcommittee in the spring of 2008 to recommend any necessary amendments to SORNA. The

subcommittee continues to monitor Adam Walsh implementation issued in other states and awaits the final guidelines from the Department of Justice, which have not yet been released. The SOMB will monitor federal changes and state implementation and outcomes in FY 2010. The adult treatment subcommittee is currently reviewing evidence-based evaluation instruments and treatment regimes to ensure that convicted sex offenders are subject to the most reliable risk assessments and evaluations and receive the most the effective treatment possible under current best practices. The subcommittee presented its recommendations regarding evaluations and standards of practice to the treatment community in the fall of, 2006. The subcommittee reviewed the recommendations and concluded that it should change its approach regarding standards. The subcommittee drafted new standards of practice during 2007 and presented the new standards to the treatment community for comments in April, 2008. The subcommittee will incorporate the comments received from the treatment community in its recommendations to the full SOMB.

The SOMB recognizes that sex offender evaluation and treatment is a continually evolving field. Thus, the Board will continue to monitor advances in the field to ensure that New Mexico treatment providers utilize the most effective treatment and evaluation modalities available. (See additional discussion below).

(3) develop and recommend guidelines and standards for the treatment of sex offenders that can be utilized by offenders who are placed on probation, incarcerated with the corrections department, placed on parole or placed in a community corrections program. The guidelines and standards shall include a monitoring process and a plan for developing treatment programs for sex offenders, including determining the duration, terms and conditions of probation and parole for sex offenders;

The SOMB includes two representatives from the Corrections Department: the director of behavioral health and the supervisor for the sex offender treatment programs. The supervisor is currently formalizing program standards and guidelines for offender treatment in the custody of Corrections. The SOMB will review those standards and guidelines when they become available. As noted above, the treatment subcommittee is currently working on treatment standards and guidelines for non-incarcerated sex offenders.

The SOMB is currently reviewing the issue of juvenile probation agreements. The Board will work with CYFD and the courts in FY 2009-10 to attempt to standardize these agreements statewide. The Board has also reviewed existing standard adult parole agreements, but does not yet possess sufficient information to make evidence-based recommendations regarding the duration, terms and conditions of such agreements. Thus, the Board has not yet addressed this specific issue. However, the Board believes that its research and development efforts regarding risk assessments, evaluation instruments and treatment standards will provide a framework to address this issue in FY 2009-10.

(4) create a risk assessment-screening tool and program to assist sentencing of sex offenders, including determining the duration, terms and conditions of probation and parole for sex offenders;

As noted above, the Board is currently developing risk assessment-screening tools. The Board recommended legislation in 2006 to enact lifetime parole and probation for certain offenders. Lifetime parole was enacted in 2007. The Board has not yet addressed the issue of the duration, terms and conditions of probation and parole beyond what has been recommended in the legislation. The Board will begin research on best practices specific to the duration, terms and conditions of probation and parole for sex offenders in FY 2009 and will continue this work in FY 2010.

(5) develop guidelines and standards for monitoring sex offenders who are undergoing evaluation or treatment, including behavioral monitoring;

As noted above, the Board has recommended proposed sex offender supervision guidelines to the NMSC. The NMSC referred the supervision guidelines back to the Board for amendments to address tribal issues and for reconsideration of those provisions effecting family reunification.

The Board discussed and adopted amendments to address the tribal issues and referred the reunification issues to a subcommittee formed for that purpose. The subcommittee recommended amendments to the Board, which referred the amendments to the Guidelines Subcommittee for review. That subcommittee reviewed the amendments and concluded that it could not recommend that the Board adopt them. Rather, the Guidelines Subcommittee recommended that the Board should re-submit the sex offender supervision guidelines to the NMSC with only those amendments approved by the Board regarding the tribal issues.

(6) develop criteria for measuring a sex offender's progress in treatment programs. The parole board shall use the criteria approved by the New Mexico sentencing commission to determine whether a sex offender may appropriately be discharged from parole;

The Adult Treatment Subcommittee believes that the treatment guidelines will include treatment progress scales that may be utilized by the parole board in making parole decisions. It should be noted that certain offenders are now subject to lifetime supervision. The state bears the burden of proving that the offender should remain under supervision. The progress criteria may be useful in certain circumstances in determining whether the state should seek continued supervision. The SOMB Adult Treatment Subcommittee has agreed on two static risk instruments that it will recommend to the Board for adoption to aid in this decision. However, static instruments will not completely address the needs of the parole board, as static instruments are, by their nature, based upon fixed data, such as gender, age at date of first offense, etc. Researchers in the field continue efforts to develop risk instruments based upon dynamic factors, but the process is slow and difficult, as many factors and constellations of those factors can influence behavior. The subcommittee will continue to monitor advances and will offer its best recommendations to the Board before the conclusion of calendar year 2008.

(7) develop a standardized procedure for the identification and evaluation of juvenile sex offenders. The procedure shall include behavior management, monitoring, treatment and program compliance for juvenile sex offenders. The Board shall develop and implement measures of success;

The Juvenile Treatment Subcommittee is currently developing a proposed list of accepted risk assessment and evaluation instruments. The subcommittee is currently working with the juvenile sex offender treatment community and representatives from Value Options to develop a common evaluation method(s). The biggest challenge is that there is no consensus on the best evaluation tools and none has proven particularly effective across different populations. The subcommittee will continue its efforts.

(8) develop and recommend guidelines and standards for the treatment of juvenile sex offenders who are placed on probation, committed to a state agency, placed on parole or placed in a community corrections program;

The juvenile treatment subcommittee meets monthly with juvenile sex offender treatment providers to develop treatment standards and guidelines that will apply under all possible circumstances. Unfortunately, experts have not reached a consensus on what treatment model is most effective for juveniles. Thus, the subcommittee continues to work with the treatment providers to develop a workable framework. The Subcommittee coordinated with CYFD to utilize the expertise of a national expert in the field of juvenile sex offense specific treatment to develop juvenile treatment standards. CYFD contracted with the expert to produce draft standards and guidelines. These were presented to the juvenile sex offender treatment community for comment. The comments have been reviewed and incorporated in the current version of the guidelines. The guidelines are currently being amended to include supervision

(9) research and analyze safety issues raised when sex offenders live in a community;
The Board drafted and issued a formal position paper recommending that the state and municipalities should not adopt ordinances restricting where sex offenders may reside. This

recommendation reflects the negative outcomes of states that have adopted such restrictions and the advice of treatment and supervision experts from around the country.

(10) study and consider the viability and legality of a civil commitment program for sex offenders;

The Board has concluded that a civil commitment program may be designed such that it would withstand constitutional challenge. However, the Board has likewise concluded that a civil commitment program would not be financially viable for New Mexico at this time.

(11) research and determine the feasibility and legality of implementing indeterminate sentencing for sex offenders;

The Board has begun research, but has not yet engaged in a comprehensive study regarding this issue. The Board will focus on this issue after it has completed its duties regarding supervision and treatment guidelines. The Board anticipates that it will begin its research and analysis in FY 2009 and continue in FY 2010.

(12) study the use of clinical polygraph testing as a means to evaluate sex offenders;

The Board has examined this issue in detail and has concluded that clinical polygraph may be useful in supervision. The Board's proposed supervision guidelines provide that a clinical polygraph examiner will be a member of the supervision team. The Board has not yet concluded its research regarding the role of polygraphs in treatment. However, the Board has concluded that the use of polygraph with regard to offenders in the custody of the Corrections Department would be problematic. The Board will continue its research on the use polygraphs.

(13) evaluate sex offender treatment programs administered by state agencies and recommend changes, if needed, in those treatment programs; and

The Board has engaged in extensive discussions with the staff of the Sex Offender Treatment Program regarding its facilities and programming. In fact, the director of STOP is a member of the Board. The Board is conducting a study on recidivism among graduates of the STOP program. The Board is contemplating expanding the study to include a performance evaluation to determine whether the STOP program is adhering to best practices. Also, as noted above, the Board membership includes the Corrections Department's director of behavioral health and supervisor of its sex offender treatment programs. The Department's programs are in the early stages of its current design and have not been in existence long enough to warrant extensive evaluation. Thus, the Board will continue to monitor these programs through the members, but has not yet engaged in a comprehensive study.

(14) review the provisions of the Sex Offender Notification and Registration Act and recommend changes, if needed, to that act.

As noted above, the Board recommended amendments to the Sex Offender Registration and Notification Act in 2005. Those amendments were enacted. The Board is currently reviewing changes to federal law (the "Adam Walsh Act") and it will determine what changes should be recommended to the legislature to ensure compliance with the federal system. (See additional discussion below)

E. The members of the sex offender management board shall be paid pursuant to the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance." (end of statute)

New Mexico's Sex Offender Management Board (SOMB) has been meeting since February 2004. Additionally, in order to most efficiently approach the work involved with fulfilling its statutory duties, the SOMB has divided its members into two work groups, one focusing on treatment issues and one focusing on guidelines issues. Both groups come together as the SOMB at least eight times per year.

Since one of the SOMB's legislative mandates is to review and evaluate the sex offender treatment programs administered within the state, the Treatment Work Group completed a statewide *Provider Survey* to gather information on New Mexico's sex offender treatment providers. The survey asked for information regarding criteria and protocols, as well as the type and extent of services provided. During FY2008 and FY2009, the SOMB Treatment Group will develop formal treatment guidelines to help ensure that those who provide treatment to sex offenders are qualified to do so on a consistent basis.

Leading up to the 2005 legislative session, the SOMB Guidelines Work Group drafted and proposed a major re-write of the Sex Offender Registration and Notification Act (SORNA or "Megan's law"). This task was one of the statutory mandates of the SOMB. The proposed changes were passed by the Legislature and signed by the Governor, putting New Mexico sex offender laws in alignment with other state sex offender laws throughout the country.

While Section 9-3-13 NMSA 1978 calls for the SOMB to meet "at least eight times per year," the SOMB and its Treatment and Guidelines Committees are holding meetings approximately 24 times per year.

As was mentioned in passing above, but worthy of serious note, sex offender management and treatment, like many areas of criminal justice, is a constantly evolving field. It is not unusual for new research to cast doubt on long accepted "truths" and to provide empirical support for new ideas and practices. The standards, guidelines, targets and timetables set forth above are subject to this reality and, thus, will no doubt require regular review and amendment to ensure that New Mexico utilizes best practices in all areas of the field.

NMSC RULE MAKING

9-3-10.1. Authority to review records or information; exceptions; rules

- A. *The New Mexico sentencing commission is authorized to inspect, copy, receive and review all records, data and information in the possession of state, county and local government agencies, except records, data or information that:*
- (1) is privileged under the rules of evidence;*
 - (2) compromises or tends to disclose any privileged record or information; or*
 - (3) consists of reports, memoranda or other internal documents given to or communications made to a prosecutor or defense attorney in connection with the investigation, prosecution or defense of a criminal case.*
- B. *The New Mexico sentencing commission shall promulgate rules setting forth procedures for inspecting, copying, receiving, reviewing and reporting records, data and information necessary to fulfill its duties. State, county and local government agencies shall assist the commission in obtaining the records, data and information necessary to fulfill the commission's duties. All records, data and information received or obtained by the commission shall have the same status with regard to access or release as when the records, data or information were in the possession of the entity from which the commission received it.*

In accordance with the statutory section cited above, the NMSC promulgated a rule regarding data collection. The rule is compiled in the New Mexico Administrative Code (See Title 10, Chapter 14, Part 2).

EARNED MERITORIOUS DEDUCTION (EMD) REPORT

31-18-15 (G)

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners.

In accordance with 31-18-15 (G), the NMSC annually conducts and publishes a report concerning the percentage of sentences served by violent and non-violent inmates committed to the jurisdiction of the corrections department. This report is published in October and is presented each year to the interim legislative Courts, Corrections and Justice Committee. The report is also published on the NMSC web site. This EMD report requires hundreds person-hours, both staff and UNM undergraduate students, in hand-gathering, copying and data entry of inmate records from the adult men's and women's prisons.

WORK IN RESPONSE TO LEGAL AUTHORITY

As stated in the NMSC and SOMB statutes and accompanying narrative, the Commission advises the executive, judicial and legislative branches of government on policy matters relating

to criminal and juvenile justice by providing recommendations, impartial research and information, analysis and data when requested or when the opportunity arises. Research and communicative meetings are necessary in order to provide this information and assistance in an accurate and timely manner.

To this end, Commission staff devoted many hours to thorough research and the Commission meets regularly and often. It is only through this forum that a truly coordinated cross-agency perspective can be developed; and this perspective is one that can be of great value to the state in developing criminal and juvenile justice policy.

RESEARCH REPORTS

- 1) In response to the detailed mandates outlined in the Commission's enabling statute, the Commission has published over fifty research reports, all of which are available and downloadable from the NMSC web site. The Commission continues to conduct research regarding these topics and on other topics as information is needed. During FY08 and at the beginning of FY09, the Commission completed and published the many reports listed on pages 4-6 of this Strategic Plan.

During FY09 and FY10, the NMSC will continue to provide at least 11 research reports each year for the Legislative and Executive branches of government.

DISTRIBUTION OF CRIMINAL JUSTICE INFORMATION

Regarding the statutory mandate to serve as a clearinghouse for criminal justice information, the Commission maintains a web-based library of its own research reports and studies numerous criminal and juvenile justice-related publications. At least 50 reports are available on the Commission's web site.

This site is designed to provide New Mexico and the constituents on the NMSC with a large amount of information. Summaries of the Commission's legislative work may also be found online, including copies of its own drafted legislation and specific recommendations regarding criminal and juvenile justice bills introduced during the legislative session.

By providing information directly to the public, the Commission is freeing up other state agencies to more directly target their mission and goals. As stated above, many of the 400,000 monthly visits to the NMSC web site are from citizens (and state agencies) accessing the NMSC Adult and Juvenile directories. This is an efficient use of state resources; because once the information is put online, no additional staff time is required to access it.

As stated earlier in this report, in FY08 NMSC produced and published a CD ROM of the *Expanded Juvenile Justice Inventory* for CYFD and the Public Education Department in addition to our on-line version for all state agencies and the public. We have merged the NMSC resource directory and the CYFD juvenile justice program resource directory information into one complete directory. During FY2008, this CD was distributed to schools throughout New Mexico. This CD of juvenile justice information will help teachers, counselors and juvenile justice professionals find services for youth perhaps before situations rise to the level of crisis or criminality.

The Commission continues to make every effort to provide its constituents with the information they need to make informed and effective policy decisions.

NMSC CONSTITUENCY

The Commission has a broad constituency base, including:

Government

Executive Branch

- Governor
- Gubernatorial Staff
- Executive Agencies

Legislative Branch

- State Legislators
- Legislative Staff and Analysts
- Legislative Council Service
- Legislative Finance Committee

Judicial Branch

- Judges
- Judicial Staff

Other Government

- General Control Agencies

Public

Research and Policy

- Policy Foundations
- Research Organizations

Other Public

- Media Representatives
- Members of the Interested Public, In-state and Out-of-state

The Commission constantly works to make constituents aware of the resources it has to offer and how its information and recommendations can benefit public policy. Legislators often approach Commission members and staff with specific requests for information and position statements.

INTERNAL AND EXTERNAL ASSESSMENTS

Position of the NMSC/SOMB/JISC:

Because it is the only statewide gathering of criminal justice constituencies created to address policy issues, the ability to research and identify problems is unrivaled. The Commission can then share its research findings with key criminal justice professionals and policy makers throughout the state.

The statutory mandate of the NMSC (See Section 9-3-10.1 NMSA 1978) allows it access to a full range of data sources that make it able to provide complementary views of the current practices of the criminal justice system in New Mexico. The Commission has developed a multi-year relationship with the Institute for Social Research at the University of New Mexico, which gives it access to highly skilled criminal justice researchers.

The collaboration of criminal justice practitioners and criminal justice researchers means the resulting policy maximizes its effectiveness and reduces its cost.

The Commission has become the home and lead agency for the Justice Information Sharing Council and will work closely with the Office of the Chief Information Officer (OCIO) and other state agencies to increase its ability to obtain and provide criminal justice information from the broadest possible overview.

Performance:

Since its inception, the Commission has met consistently and frequently, bringing together highly qualified representatives from diverse parts of the criminal justice system, including members of the Executive and the Judiciary, representatives of lawmakers, law enforcement officials, criminal defense attorneys and members of citizens' interest groups.

This unprecedented initiative is designed to focus considerable professional expertise and a variety of programmatic viewpoints on the search for effective, reasoned and pragmatic solutions to problems in the State's criminal and juvenile justice systems. Grounded in the best available research, the Commission aims to provide specific recommendations for legislative and administrative changes in areas of key concern.

DATA COLLECTION

For FY09 and FY10, the Commission continues to make the collection, analysis of criminal and juvenile justice data and the dissemination of that analysis its highest priority. Only with accurate and interrelated data can the Commission provide information concerning the current functioning of the criminal justice system, and the likely impact of projected legislative or administrative changes. While each of New Mexico's respective criminal and juvenile justice agencies collects its own data, it is often the analysis of *all* of those databases that will ultimately provide New Mexico policy makers with the "big picture" of the New Mexico criminal and juvenile justice systems.

As of July 2008, the NMSC has succeeded in obtaining updated data sets from:

- NM Corrections Department – prisoner, conviction and EMD ("good time") data
- Department of Public Safety – arrest data for both DPS and local law enforcement
- NM Judiciary – all felony and misdemeanor disposition and judgment data from 2003 to present
- CYFD – all juvenile incident, disposition and detention data
- District Attorney data
- Public Defender Department data
- Municipal court data from several large municipal courts

NMSC now has nearly complete data from all key New Mexico criminal and juvenile justice agencies and branches of government.

The NMSC Data Committee Research Plan lays out the Commission's short and long-term data gathering and analysis plans. The NMSC has created a body of research work that is frequently cited and used as a basis for policy decisions. Much of this data would be difficult or impossible to compile without the research expertise and administrative contacts the Commission brings to the table.

The Commission has had a good balance between continuing members and new appointees. The turnover allows an infusion of new perspectives and ideas, while the continuing Commission members bring an institutional memory and continuity that keeps the Commission working productively.

Challenges:

Although the Commission operates as a non-partisan entity, it exists in a politically charged atmosphere. The Commission prides itself, however, on the civil discussions that take place at its meetings. Participants who are normally on opposite sides of the aisle or who come from different perspectives regarding criminal justice and corrections issues are able to meet in an

environment of respect with the unified goal of solving problems. Although Commission members may not always reach consensus on issues, the discussions yield a deeper understanding of the problems at hand and have brought the state closer to the development of solutions to those problems. When consensus can not be reached, the Commission reports on the actual vote taken on every piece of proposed criminal or juvenile legislation.

Solutions/Outreach:

Commission staff work throughout the year with key legislators, the Executive and their key staff members to ensure an understanding of the Commission’s work, as well as the state of the justice system in New Mexico. The Commission is also working to serve the criminal justice policy interests of the state in ways that are reactive as well as pro-active, by having data available to inform and recommend policy solutions raised externally to the NMSC.

Commission staff is currently working on effective communication techniques so that its key constituents – legislators, the executive, and the judiciary – understand the information the Commission is able to provide and the resources that are at their disposal. We publish an increasing number of key reports each year and very actively share those report with policy makers and the public alike.

NMSC, SOMB and JISC staff also are voting members of or attend and participate in important meetings sponsored by related state criminal justice organizations:

- Supreme Court Criminal Justice Task Force (attend)
- State Traffic Records Executive Oversight Committee (voting member)
- Parole Board (attend as requested)
- Corrections Department Population Control Committee (attend)
- Justice Information Sharing Council (lead agency and Chair)
- Juvenile Justice Advisory Council (JJAC) (attend)
- Juvenile Justice Education Advisory Council (member)
- YDDC Advisory Board (member and co-chair)
- Corrections Oversight and Justice Interim Legislative Committee hearings (attend all; testify at most)
- LFC and other legislative hearings, both in the regular session and during the interim (attend and provide testimony as requested or needed)
- Association for the Treatment of Sexual Abusers (member)

NMSC, SOMB and JISC staff have also presented at or actively participated in:

- National Tribal Crime Data and Information Sharing Conference
- National Governor’s Association Justice Information Sharing Policy Academy
- U.S. Dept of Justice Global Justice Information Sharing Initiative
- Juvenile Justice Alternative Initiative Conference
- National Association of Sentencing Commissions annual conference
- MADD International DWI and Ignition Interlock Conference

Potential:

As we move through FY09 and into FY10, the effectiveness and potential of the Commission lies in the combination of its collaborative, inter-agency, problem-solving approach and the data and research required to ensure the developed solutions will be efficient and effective.

The NMSC, the SOMB and JISC are working to:

- Create, maintain and improve a mechanism to analyze up-to-date collection of criminal justice data from every related agency (the JISC web portal will ultimately provide us with direct, real-time access to much of this data);
- quickly and effectively respond to legislative, judicial and executive requests for information;
- analyze all legislation relating to criminal and juvenile justice;
- provide recommendations that reflect the multiple perspectives Commission members bring to the table; and
- increase the likelihood that enacted criminal justice policies will be effective in addressing criminal and juvenile justice problems in New Mexico.

With additional funding as estimated in the Senate memorial 47 (2008 session) Report, the NMSC will provide fiscal impact analysis of proposed legislation.

Environmental Scan:

As stated earlier, the Commission operates in an external environment that is often politically charged. In some ways, however, the Commission's external environment is also its internal environment. The three branches of government the Commission is statutorily mandated to serve are all represented among the Commission members. The Commission has also increased its efforts to invite a wide range of people to its Commission meetings and activities so that viewpoints outside of the Commission are heard when key decisions are made. The Commission's visitors and other interested parties email list exceeds one hundred people and this group is notified in advance of every meeting of the Commission, the Sex Offender Management Board and all related committees and work groups.

Active Membership – Committees Work Plans:

The numerous cabinet secretaries and agency heads who serve on the NMSC and SOMB actively participate in Commission and committee meetings.

The Commission has formed four Committees, plus the Sex Offender Management Board, each with a specific mission or task, which will in turn roll up to the full Commission:

- The **Data Committee** - identifies data and research needed to support the Commission's overall mission and guide the NMSC staff in developing a data infrastructure for the gathering and analysis of all available statewide criminal and juvenile justice related databases. The Data Committee Research Plan is attached to this Strategic Plan.
- The **Sentencing Reform Committee** is focusing on both the short term goal of addressing "anomalies" in existing law and the long-range statutory goal of reviewing the entire New Criminal Code and sentencing structure.
- The **Legislative Committee**, which operates primarily during legislative sessions, makes recommendations to the legislative, executive, and judicial branches of government on a full range of issues relating to the criminal and juvenile justice systems. The recommendations are based on the best available research, with the goal being to recommend effective, fiscally prudent and administratively rational solutions.
- The **Juvenile Committee** will continue to focus on all New Mexico juvenile justice issues. During FY08, the Committee will continue to visit programs and facilities throughout the state and make recommendations to the Commission as appropriate.

Benchmarking: The combined data housing and analysis capacity will continue to increase the usefulness of the Commission to the state and to policy makers.

For FY10 and ensuing fiscal years, the Commission will emphasize making its research findings more widely available to its constituents and to the public at large by publicizing their existence on the “<http://nmisc.unm.edu/>” web site so that policy makers, advisors and interested citizens can obtain the available data. In order to comply with the requirements set forth under the Government Accountability Act, the Commission has agreed upon performance measures with the LFC and DFA analysts to gauge the effectiveness of the NMSC.

AGENCY PROGRAM LISTING

Program: The Commission has agreed that given the specific scope of the Commission’s purpose and the interrelationships of its activities, the Commission should operate under a single program, described as follows:

New Mexico Sentencing Commission Program: The purpose of the New Mexico Sentencing Commission Program is to provide information, analysis, recommendations and assistance from a coordinated cross-agency perspective to the three branches of government and interested citizens so they have the resources they need to make policy decisions that benefit the criminal and juvenile justice systems.

Goal and Objectives

Goal: To make well-reasoned legislative and policy recommendations to the New Mexico executive, judicial and legislative branches.

Objectives: To provide NMSC members and the New Mexico executive, judicial and legislative branches with sufficient data, resources and analysis to implement knowledgeable policy decisions.

Program Activities: The advisory activities of the New Mexico Sentencing Commission consist of the production and provision of criminal and juvenile justice information and recommendations from a coordinated cross-agency perspective. Specific tasks and strategies are outlined and described below within the Strategies and Action Plans section of the Strategic Plan.

Performance Measures and Standards

Measure:

NMSC is to analyze all juvenile and criminal justice bills introduced by the legislature.

FY07: Will analyze all bills introduced

FY08: Will continue to analyze all bills introduced

FY09: Will continue to analyze all bills introduced

FY10: Will continue to analyze all bills introduced

Goal: To provide constituents useful criminal and juvenile justice resources from a coordinated cross-agency perspective.

Objectives:

A. Provide resources to an average of at least 400,000 hits to web users per month.

Purpose: to ensure that the Commission is providing information to its constituents.

- B. Complete all research projects as assigned by the NM Legislature and by the Commission itself.

Program Activities: The advisory activities of the New Mexico Sentencing Commission consist of the production and provision of criminal and juvenile justice information and recommendations from a coordinated cross-agency perspective. Specific tasks and strategies are outlined and described below with the Strategies and Action Plans section of the Strategic Plan.

Performance Measures and Standards

Output Measure: Number of web site hits per month

Indicator of: Productivity or activity and communication

FY04 Target: An average 20,000 hits, per month

FY05 Target: An average 40,000 hits, per month

FY06 Target: An average 50,000 hits, per month

FY07 Target: An average 50,000 hits, per month

FY08 Target: An average 50,000 hits, per month

FY09 Target: An average 400,000 hits, per month

FY10 Target: An average 400,000 hits, per month

Output Measure: Number of research projects completed

Indicator of: Productivity or activity and communication

FY04 Target: 5-7 research projects

FY05 Target: 9 research projects

FY06 Target: 9 research projects

FY07 Target: 11 research projects

FY08 Target: 11 research projects

FY09 Target: 11 research projects

FY10 Target: 11 research projects

We feel that these measures are:

- Credible - they are accurate and meaningful indicators of what the Commission does and why it is important;
- Fair - they are within the control of the agency and encourage better agency performance;
- Clear - they are straightforward, understandable measures that are common-sense and compelling; and
- Practical - they use data that can fairly easily be incorporated into the daily routines of staff and lend themselves well to reporting.

Strategies and Action Plans

Strategies: The Commission has two major strategies to ensure it meets its performance targets:

Increased emphasis on communication: The Commission has recently made more of an attempt to solicit input, participation and feedback from potential constituents. The Commission realizes that it is effective only to the extent that constituents are aware of and use its resources.

The visibility of the Commission will be increased by consistently publishing its research reports and activities and by working closely with constituents ensuring that the provided resources are responsive to the constituents needs. As a result of these efforts, hits on the NMSC web site have gone from an average of 20,000 per month in July 1, 2002 to over 400,000 hits per month in July 2008.

Development of a Data Infrastructure and Research/Information Gathering:

The NMSC has achieved a good part of it earlier goals of developing a data infrastructure for the gathering and analysis of all available statewide criminal and juvenile justice related databases. This will make it possible to:

- Respond quickly to LFC, DFA and other government request for accurate and objective justice data analysis.
- To work as lead agency of the Justice Information Sharing Council to gain more direct access to New Mexico's criminal justice data sets.
- To do research and analysis across data sets while in some cases tracing the records of criminals over a long period of time.
- To go beyond basic recidivism data in determining which treatment programs and modalities work best in or out of incarceration.
- See the problems that exist in the criminal and juvenile justice systems and develop solutions that benefit those systems.
- Where possible, study the flow of juvenile offenders into the adult system, by studying both CYFD and DPS data sets.

Action Plans:

Communication and Data:

Plans to increase communication and serve the policy needs of the state include:

- During FY08 we replaced a vacated full time administrative position with two half time researchers. We now have a total of almost 2 FTE UNM Research Scientists on staff. Any additional increase to that amount would enable the Commission to produce yet more research reports as needed by the LFC, DFA, the Legislature and the Executive.
 - Maintain and update the Juvenile Justice Program Inventory
 - Maintain and update the Criminal Justice Resource Directory
 - Maintain and update the NMSC Uniform Charge Code Table, now incorporated into the AODA CMS and the DPS Automated Fingerprint Information System
 - Monitor the impact of enacted sentencing guidelines. FY09 targeted activities include:
 - A determination of the number of offenders currently held in prison who are subject to reduced meritorious deductions under the "Earned Meritorious Deductions" (EMD) policy effective July 1, 1999, as defined in Section 33-2-34 NMSA
 - A determination of the number of offenders released during fiscal year 2007 who had been admitted under EMD
 - A determination of the post-release average reduction in sentence for violent and non-violent offenders serving time under EMD

Development of Recommendations

NMSC continues to:

- Recommend solutions to problems identified in the criminal and juvenile justice systems as identified and researched through the research and information gathering processes described above.

- Track, analyze, form and communicate recommendations to the legislature concerning proposed changes to laws relating to the criminal and juvenile systems, including the assessment of the impact of potential legislation.
- Continued production and distribution of summary documents containing the Commission's legislative recommendations and rationale.

Communication

- Hold regular meetings of Commission membership and its numerous committees – The SOMB (and its Adult Guidelines, Juvenile Guidelines, Adult Treatment and Juvenile Treatment committees), JISC, the NMSC Data, Juvenile, legislative and Sentencing Reform committees.
- Establish close liaisons with the executive, judiciary and legislature for the purposes of soliciting requests for opinions on criminal justice policy and ensuring that Commission activities meet the needs of policy decision-makers.
- Attend executive, judiciary and legislative criminal justice activities, including legislative hearings and sessions to communicate recommendations and provide information.
- Publish and disseminate results of research and advisory activities including summary research reports, policy recommendations and recommendations on pending legislation.
- Coordination of public interface; respond to external requests for information; maintain a publicly accessible web site containing links to information and online copies of Commission publications.

Administration

- Maintain the records, publications, library and history of the Commission.
- Maintain internal administration and accounting documentation.
- Develop and refine strategic plan.
- Prepare an annual budget request.
- Monitor performance requirements.

Justice Information Sharing Council (JISC)

The JISC made great strides in FY08 and will continue to become an even more essential tool for all criminal justice personnel in the state into FY09 and FY10. The JISC base budget should continue to be part of the NMSC base budget and will be submitted through the New Mexico Sentencing Commission. NMSC will also continue to manage JISC activities along with other member justice agencies. The following narrative provides details for this most important collaborative effort:

JISC PROJECT SUMMARY

The Justice Information Sharing Council (JISC) is a statewide, multi-branch and multi-agency effort to facilitate the sharing of key justice information. As a result of JISC agency collaboration and work with some New Mexico Tribes, New Mexico has become a national leader in justice information sharing. We continue to develop and maintain an integrated information technology system to support the efficient collection and sharing of critical justice information at the municipal, county and state levels. The JISC Web Portal integration platform deployed in FY04 is the foundation for the JISC justice integration initiatives and is the culmination of the efforts of representatives from the following agencies:

- Administrative Office of the Courts
- Administrative Office of the District Attorneys
- Department of Public Safety

- NM Corrections Department
- Public Defender Department
- Children, Youth and Families Department
- NM Sentencing Commission
- Tribal Representatives
- Motor Vehicle Division

FY10 JISC Objectives and Deliverables (will require additional funding)

Expansion of the Consolidated Offender Query to include:

- MVD records and photo (the state DoIT has asked JISC to take the lead on a C-2 funding request for this key public and officer-safety project)
- Victim Notification Automation (working with Governor's DV Czar and Das on this)
- Emergency Protective Order integration (Funded with federal Violence Against Women Act dollars through the NM Attorney General. Expected completion January 2009)
- Work with Acoma, Laguna and Zuni pueblos to build a local Data Warehouse, as a first step for information sharing among the tribes using GJXDM (Global Justice Data Exchange Model)
- Reporting function of the Consolidated Offender Query (completed September, 2008)
- Centralize database for 80 Municipal courts