

NEW MEXICO SENTENCING COMMISSION

December 7, 2016 MINUTES

Nusenda Credit Union
 4100 Pan American Highway
 Albuquerque, NM
 10:00 AM

Commission Members Present	Commission Members Absent	Others	NMSC Staff
Marron Lee, Chair	Gail Armstrong	Judge Michael Vigil	Linda Freeman
Bob Cleavall, Vice Chair	Dave Sidhu	Robin Bruck	Tony Ortiz
Martin Suazo	Artie Pepin	Jim Brewster	Amanda Armstrong
Anjennette Torrez, (for PED Sec. Hanna Skandera)	Hon. Jerry Ritter	Amir Chapel	
Sharon Pino, (for AG Hector Balderas)	Amy Orlando	Ken Stolter	
Cindy Aragon	Hon. Joel Garnett	Monica Ewing	
Jason Rael, (for Chief Public Defender Ben Bauer)			
Sharon Stover			
David Jablonski, NMCD Secretary			
Michael Heitz, (for CYFD Secretary Monique Jacobson)			
Michael Lilley			
David Schmidt			

Clint Wellborn			
Moises Valdez, (for Frank Zubia)			
Regina Chacon, (for DPS Secretary Scott Weaver)			
Judge J. Miles Hanisee			

Welcome. Marron Lee, Chair, welcomed members and guests to the meeting. She noted that there have been recent changes to the membership of the Sentencing Commission. Judge Michael Vigil addressed the members and shared his gratitude for work performed by the Sentencing Commission during his tenure as a member. NMSC members thanked Judge Vigil for his service on the commission. Chairwoman Lee then welcomed new members: Judge J. Miles Hanisee, NMCD Secretary David Jablonski and Sharon Stover.

Approval of minutes. The minutes for the August 17, 2016 meeting were approved by consensus.

Staff report:

Transitions. Amir Chapel, NMSC Research Scientist, has accepted a position with the Center for Applied Research, Institute for Social Research. Amir attended the meeting, so that he could personally thank NMSC members and staff. Several commission members thanked Amir for his service.

Audit. The NMSC FY17 audit has been completed and submitted to the Office of the State Auditor. Following a conversation with the audit firm during the exit conference, a potential finding was removed from the final report.

Update on the NMSC appropriation for FY 17 and the NMSC appropriation request for FY 18. The NMSC’s FY 17 general fund appropriation has been reduced by \$30,500. The FY 18 appropriation request will be for a flat budget that includes the FY 17 reduction.

2017 National Association of Sentencing Commissions conference to be held in New Mexico. The New Mexico Sentencing Commission will host the 2017 conference. NMSC staff is working on logistics for the conference, which will be held in Santa Fe on August 27-29, 2017.

NMSC Research Projects. Staff summarized work on the following research projects:

Law enforcement assisted diversion (LEAD) evaluation. The NMSC has been awarded the contract to evaluate the LEAD program in Santa Fe. Staff is working on a submission to the Institutional Review Board at the University of New Mexico. The evaluation will include quantitative and qualitative elements and the goal is to complete this project by Spring 2018.

Prison population forecast. The forecast, published July 2016, was presented to the legislative Courts, Corrections and Justice committee on September 12, 2016.

Adverse childhood experiences. Amir Chapel and Dr. George Davis presented the adverse childhood experiences study to a joint meeting of the interim Courts, Corrections and Justice and Health and Human Services committees on October 28, 2016.

Resource needs assessment for the Judiciary, District Attorneys and Law Offices of the Public Defender. The annual resource needs assessment has been completed. This is the final year that the resource needs assessment will be produced by Sentencing Commission staff, as it has been ten years since the original workload study was performed.

County Detention Facility Reimbursement Act. Information has been provided to the local government division of DFA to inform the distribution of funds to eligible counties.

Updated study regarding length of stay in county detention facilities. Sentencing Commission staff is working on a third generation study that analyzes

length of stay in county jails. This analysis should be completed by the summer of 2017.

Summary of legislative Courts, Corrections and Justice committee meetings on November 16th-18th.

Tony Ortiz referred members to a list of 15 bills endorsed by the interim Courts, Corrections and Justice Committee. Measures endorsed by the committee include the following:

- domestic violence orders of protection and firearm possession;
- parole procedures for 30-year life sentences;
- employment of former offenders;
- revised procedures for supervised release of juvenile offenders who abscond;
- uniform collateral consequences of conviction; and
- creation of special use of force unit in the Attorney General's Office.

Discussion of criminal and juvenile justice proposals likely to be introduced during the 2017 legislative session. NMSC members discussed a number of measures, including:

- proposed amendments to the state Sex Offender Registration and Notification Act (SORNA);
- revised procedures for supervised release of juvenile offenders who abscond;
- increased penalties for battery on CYFD workers;
- dual sentencing for certain youthful offenders;
- collection of restitution from criminal offenders;
- penalties for possession of cell phones by inmates;
- proposed amendments to the Forfeiture Act; and
- proposals to decriminalize possession of small amounts of marijuana.

Report from the Legislative Committee. Martin Suazo, Chair, briefed the commission members.

The Legislative Committee will hold its initial meeting on Tuesday, (January 24, 2017), at 10.00 a.m. Subsequent meetings will also be held on Tuesday mornings through the final meeting on March 7th. All meetings will be held in the Administrative Office of the Courts conference room, in the North Capitol annex, Santa Fe. During Legislative Committee meetings, staff will record comments from Legislative Committee members, comments from other NMSC members not assigned to the Legislative Committee, and public comments. Those comments will be published in the NMSC's Bill Tracker, which is widely distributed during legislative sessions.

Report from the Justice Information Sharing Council. Regina Chacon, Chair, briefed the Commission members.

She summarized progress on the criminal records database and provision of information to the Judiciary.

The Department of Public Safety (DPS) has hired all staff for this project, except for one analyst position. Work is ongoing regarding a format for the criminal history reports. DPS is working on implementation of a pilot project in the First Judicial District. DPS is working on Phase 2 of this project, which primarily involves determining information that will be included in the criminal records database. DPS is working with staff at the Department of Information Technology (DoIt) on the exchange of information between justice agencies and DPS. With regard to the Consolidated Offender Query (COQ), access will be granted to federal agencies, so long as the agency is an authorized criminal justice partner. The Administrative Office of the District Attorneys (AODA) and the Attorney General's Office will have access to the COQ. The Law Offices of the Public Defender (LOPD), which is not an authorized criminal justice partner, will have limited, 2nd-tier access to the COQ.

Finally, DPS has had ongoing discussions with the AODA and Judiciary on methods to improve electronic disposition reporting. Information technology staff at DPS is testing concepts to merge information provided by the AODA and Judiciary with arrest records maintained by DPS.

Report from the Juvenile Committee. Bob Cleavall, Juvenile Committee Chair, briefed the Commission members.

During its meeting in October, the Juvenile Committee was addressed by Katrina Hotrum on the work of the NM Heroin and Opioid Prevention and Education Initiative. Ms. Hotrum is the Director of the Metropolitan Assessment and Treatment Services (MATS) program. Her comments to the Juvenile Committee included the following:

- the drug overdose death rate in New Mexico is the second highest in the nation. There were nearly 200 drug overdose deaths in Bernalillo county in 2014 and 80% of those deaths were due to heroin or prescription opioids;

- in 2014, voters in Bernalillo county approved a gross receipts tax dedicated to behavioral health programs and services. It is estimated that the tax will generate \$17 million annually. Policymakers in Bernalillo county have been developing strategies for how to most effectively use this money to improve behavioral health services;

- treatment strategies will include establishing a community standard of care for substance abuse treatment; establishing a continuum of care for substance abuse treatment; and encouraging the University of New Mexico (UNM) to show greater commitment to provision of substance abuse treatment;

- prevention strategies will include establishing more evidence-based programs or promising practices programs in APS middle schools; expanding the use of home visits; and increasing the use of prescription monitoring programs;

- naloxone strategies will include removing barriers to access and distribution of naloxone; training healthcare practitioners in the use of naloxone; and launching a public awareness campaign on the effectiveness of naloxone;

- Bernalillo county and the city of Albuquerque will work to leverage regional behavioral health programs and services and will soon issue requests for proposals (RFP's) that will address substance abuse prevention programs for youth, mobile crisis teams, law enforcement response units, and permanent supportive housing; and

- the UNM Institute for Social Research will begin evaluating programs as they come on-line.

Report from the Sex Offender Management Board. Tony Ortiz, Acting Chair for the SOMB, briefed the Commission members. On August 18, 2016. Kim Chavez-Cook and Mr. Ortiz briefed the legislative committee on the work of the SOMB, including: the role of the SOMB, working with Representatives Moe

Maestas and Yvette Herrall, that led to the enactment of amendments to the state SORNA in 2013; the publication of two studies regarding recidivism rates for convicted sex offenders in New Mexico; and the development and implementation of proposed standards for individuals who provide treatment to adult sex offenders. Ms. Chavez-Cook and Mr. Ortiz also had a dialog with the legislative committee members regarding recent amendments to the statute (Section 30-6A-3 NMSA 1978) regarding sexual exploitation of children.

During the SOMB meeting in November 2016, Sandra Dietz and Sherry Stephens briefed the members on the use of risk/needs assessments by the Adult Parole Board for sex offender's parole hearings.. Since 2012, the Adult Parole Board has held eighty-four parole board review hearings for convicted sex offenders. Twenty offenders were discharged from parole supervision, twenty-three offenders were deported to their country of origin, thirty-six offenders were continued on supervision, and the remainder have passed away. There has been an increase in the use of risk/needs assessments for these parole hearings, but the assessments are not done for all sex offenders. When the risk/needs assessments are performed, they are paid for by the Law Offices of the Public Defender (LOPD). Dr. Moss Aubrey performs the majority of assessments for the LOPD. Ms. Dietz noted that it would be optimal to have the assessments performed by an independent entity. Also, the assessments are expensive, costing approximately \$6,000.00 per assessment.

Public comment. There was no public comment.

Schedule next meeting. The next NM Sentencing Commission meeting will be held in Albuquerque on May 3, 2017, at 10.00 a.m.

Adjourn. The meeting adjourned at 11.30 a.m.