



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m.
October 20, 2020**

via Zoom

Members Present	Members Absent	Others Attending	NMSC Staff Present
Hon. Edward Chavez (retd.), Chair	Sheriff Mark Cage (House Minority)	Haven Scogin (NMCD)	Linda Freeman
Bob Cleavall, Vice Chair	Sheriff Manuel Gonzales (NM Counties)	Michael Betrus (NM Recovery Academy)	Douglas Carver
Marit Andrews (for PED)	Claire Harwell (Governor)	Cisco McSorley (Parole Board)	Amanda Armstrong
Cindy Aragon (State Bar)	Martin Suazo (Pro Tem)	Monica Ault (Fines & Fees Justice Center)	
Hon. Marci Beyer (DMCJA)		Eric Harrison (NMCD)	
Regina Chacon (for DPS)		Nick Costales (CYFD)	
Hon. John Chavez		Ellen Rabin (LFC)	
Jason Clack (for NM SCt)			
Jim Cowan (for CYFD)			
Mark Donatelli (Speaker)			
Brady Horn (for NM SCt)			
Anne Kelly (AGO)			
April Land (UNM SOL)			
Michael Lilley (Pro Tem)			
Angela "Spence" Pacheco (Speaker)			
Jason Rael (for LOPD)			

Nina Safier (Governor)			
David Schmidt (Pro Tem)			
Alisha Tafoya Lucero (NMCD)			
Clint Wellborn (NMDAA)			
Ron West (Senate Minority)			

I. Welcome. The meeting began at 10:00 a.m. Chair Justice Edward Chavez (retd.) welcomed members, guests, and staff to the meeting. Everyone on the Zoom introduced themselves.

II. Approval of minutes for the July 21, 2020 meeting. The minutes of the meeting were approved by unanimous vote.

III. Staff Report.

Linda Freeman, Executive Director of the New Mexico Sentencing Commission (NMSC), informed the committee of the following:

- The NMSC will have its budget presentation to the LFC on October 29, 2020;
- Staff is working on the Earned Meritorious Deduction report;
- Staff is working on a new Controlled Release Report. The new report will be called the New Mexico Corrections Population Snapshot, and will have more useful data than the old report;
- Staff is working on a re-projection of the Prison Population Forecast, trying to take into account the many variables that are impacting the prison population in these times;
- Staff is working on verification of the data required under the County Detention Reimbursement Act;
- Staff, along with Prof. Noah Painter Davis of the University of New Mexico, is working on a new report on recidivism in the state, one that will break out information more granularly, such as those who have left on supervision versus those who discharged, and whether there is an association with the history of a person’s violation with a propensity to recidivate;
- Staff, along with Prof. Painter Davis, is also working with a juvenile and young adult pre-prosecution diversion program in the First Judicial District;
- Staff is working on a data visualization report that will be posted to the NMSC website. The report will post information such as case counts by Judicial District and Probation and Parole Districts, and the like; and
- Staff has also been very busy attending meetings of subcommittees and subcommittee working groups, taking notes and minutes, and coordinating their work. There have been seven Reform Committee meetings, two Juvenile Committee meetings, one JISC meeting, five meetings of the Juvenile Committee’s fines and fees working group, one meeting of the Juvenile Committee’s serious youthful offender/youthful offender working group, and one meeting of the Reform Committee’s geriatric and medical parole working group.

Douglas Carver, Deputy Director, NMSC, informed the Commission that he and Executive Director Freeman had presented to two meeting of the Legislatures interim Courts, Corrections, and Justice Committee (CCJ), and one meeting of CCJ’s Criminal Justice Reform Subcommittee (CJRS). He also

informed the Commission that at the CJRS meeting, Rep. Gail Chasey had requested that the Commission provide a dollar figure for how much it would cost for the Commission to head an effort to rewrite the Criminal Code. Deputy Director Carver said that the plan was for the NMSC to bring an appropriation bill for such an effort before CCJ at their December 1, 2020 bill endorsement meeting.

IV. Presentation New Mexico Recovery Academy.

Haven Scogin, Community Corrections Administrator, New Mexico Corrections Department (NMCD), and Michael Betrus, Director, New Mexico Men's and Women's Recovery Academies, gave a presentation to the Commission on the work of the New Mexico Men's and Women's Recovery Academies. Mr. Betrus gave the Commission an overview of the two academies, the Men's Academy in Los Lunas, the Women's Academy in Albuquerque. The two academies provide gender-specific, trauma-informed treatment in each of the facilities, focusing on clients with substance abuse and related disorders, and with co-occurring conditions. The capacity of the Men's Academy is 100 clients; the Women's is 52 clients. Mr. Betrus informed the Commission that the academies provide a 180-day program. He spent some time discussing the mothers' house that was part of the Women's Academy, a space for new mothers to be with their children and learn parenting skills; many of the clients of the Women's Academy have never spent time with their children.

Mr. Betrus informed the Commission that all of the programming was evidenced-based, with a focus on criminogenic needs. The Academies use a validated assessment tool to determine needs, the RN version of the COMPAS evaluation tool, which is used at both entry to the program and exit, in order to evaluate clients' progress. The programming focuses on issues including managing substance abuse disorder, parenting, anger management, tele-psychology sessions, and domestic abuse.

Mr. Betrus added that the Covid-19 pandemic had affected programming. There are new screening protocols that have been put into place, and group sizes have been reduced. To ensure that clients still receive the same level of contact, programs are now delivered more frequently to clients.

Ms. Scogin informed the Commission that NMCD uses the Recovery Academies as a diversion program for people who are out on supervision and as a re-entry program for those ready to release. Referrals can come from judges, Probation and Parole officers, or the Parole Board. Once referred, a person is generally accepted if the person is struggling with substance abuse and addiction, and has been dual-diagnosed. There is then a clinical review conducted by the appropriate Recovery Academy; these clinical reviews are conducted from prisons and jails across the state and with potential clients in the community. Once someone is approved for admittance, transportation is arranged to get the client to their academy. Potential clients who are not accepted are those who are registered sex offenders, those who have a sex crime in their criminal history, and those with an arson conviction.

Mr. Betrus concluded by noting that the clients in the Recovery Academies are those who are treatment resistant; clients average having failed four prior treatment programs. He added that before the Covid-19 crisis, there was a fair amount of interaction between clients and the wider community, including Christmas celebrations, community work such as renovations of a church and village walls, a running club, a music club, and baseball games against other teams in the city.

In response to questions, Ms. Scogin informed the committee that at present it was not possible to place someone at one of the academies before their parole date; that roughly 40-60 percent of admissions were parolees direct from prison, with the balance made up equally of clients who had been referred by judges or by Probation and Parole officers; that clients have a graduation rate of approximately 75 percent, with women from the mothers' house having a rate of 100 percent; that the three-year recidivism rate for the Women's Academy was 12-20 percent, 15-25 percent from the Men's Academy, rates which reflect

graduates of the academies; and that all graduates of the program have housing options established for them.

Members of the Commission discussed and asked questions about being able to be accepted into a Recovery Academy before one's parole date; restrictions on community activities because of Covid-19; the graduation rates of clients; the recidivism rates of clients; housing and employment options for graduates of the academies; the need for such services as those provided by the academies in the state; whether public defenders can make referrals to the academies; and whether youth in the 18 – 21 year old range who are still under Children's Court supervision could be accepted to the academies (they cannot be, at present).

V. Report from the Legislative Committee.

As Martin Suazo, Chair of the committee, was unable to attend the meeting, this report was postponed until the Commission's next meeting.

VI. Report from the Justice Information Sharing Council.

Executive Director Freeman informed the Commission that JISC was the lead committee for criminal justice data integration efforts in the state. The New Mexico DataXchange is entering its Phase 2, and while it has received C2 funding for this fiscal year, it was not clear whether those monies will be forthcoming in the future. The DataXchange, however, was designed in an open fashion, and thus the NMSC has contracted with RESPEC to assess the market for similar data-sharing platforms. She also informed the Commission that New Mexico Tech had put up a dataset of the state identification number (SID) and is ready to move to working with the courts and the Administrative Office of the District Attorneys to have their systems accept the SID. Work has also begun on how to populate the SID into the records of people who are already involved with the criminal justice system. In addition, JISC has formed two working groups: one is working on a unified data-sharing agreement between all of the agencies and entities participating in the data-sharing process; the other is developing a hierarchy of charges in the Charge Code Table.

VII. Report from the Juvenile Committee.

Bob Cleavall, Chair, gave the Commission some background on the committee, and then informed the Commission that the committee had focused this year on the problems that have arisen from the closure of the majority of the state's juvenile detention facilities and the lack of law enforcement and other referrals to treatment programs that offer services to juveniles. In addition, the committee has formed two working groups: one to examine statutes concerning serious youthful offenders and youthful offenders, particularly concerning areas where there might be a discrepancy between the Children's Code and Court Rules, and to examine the idea of blended sentencing for juvenile; the other to look at the issue of the use of fines and fees in the juvenile justice system, a spin off from the work in the areas of fines and fees that the Reform Committee has undertaken. The fines and fees working group was nearing completion of a draft bill for the committee to consider at its next meeting; the serious youthful offender/youthful offender working group may or may not have a bill for committee consideration.

Jason Rael, Law Office of the Public Defender, chair of the serious youthful offender/youthful offender working group, discussed the working group's work. The area of focus decided on by the working group is to revise the Children's Code to allow judges to potentially administer a delinquent disposition to children found to have committed first degree murder. This would be in line with recent precedent from the New Mexico Supreme Court; follow recent scientific understanding of brain development in children, including the tremendous adverse impact incarceration in adult facilities has on children; and would give judges in the state the additional sentencing tool for these children for which they have asked. It would not take away any of a court's discretion. The working group will be meeting on the coming Friday and hopes to have a bill for committee consideration.

April Land, University of New Mexico School of Law, co-chair of the juvenile fines and fees working group, discussed their work. The idea is, in line with reform efforts that are taking place nationally, to eliminate as many fines and fees from the juvenile justice system as possible. The working group is working with the Children's Court Improvement Committee to distribute a questionnaire statewide to practitioners in the field to assess whether and how fines and fees are used in the various judicial districts in the state. The general understanding is that fines and fees are rarely, if ever, used, but the survey hopes to collect data to confirm that belief. The working group has made good progress on a draft bill. There is still some discussion to be had on whether traffic offenses should be included in the effort. She noted that the working group was not touching any of the statutes regarding restitution. She thanked Monica Ault, New Mexico Director, Fines and Fees Justice Center, for all of the assistance she has provided to the working group.

VIII. Report from the Sex Offender Management Board.

Deputy Director Carver, Acting Chair, reported to the Commission that the SOMB was still awaiting the Governor's appointments and had not met. He added that further discussion of the SOMB could be held until the Commission discussed the bill to repeal the SOMB, a later agenda item.

IX. Report from the Grants Committee.

Executive Director Freeman informed the Commission that the committee had received five applications for crime reduction grants this year. The committee will be meeting later in the month and will update the Commission at its November meeting.

X. Report from the Reform Committee.

Angela Pacheco, Chair, informed the Commission that the Reform Committee, which is made up of a cross-section of practitioners from across the criminal justice system, had met seven times since the last Commission meeting. The committee had many ideas for possible reform work, but settled on the issue of the use of fines and fees in the criminal justice system. Fees in particular are scattered throughout the statutes, and often when they are imposed, people end up going to jail because they cannot pay. The bill the committee will be presenting to the Commission for approval, a consensus bill by committee members, focuses on indigent defendants. She thanked Ms. Ault of the Fines and Fees Justice Center for all of the assistance she has provided to the committee.

Reform Committee Chair Pacheco also informed the Commission that a second bill, focusing on reforms to geriatric and medical parole, may also be presented to the Commission for approval.

XI. Bill to Abolish the Sex Offender Management Board.

Chair Chavez informed the Commission that the Executive Committee had agreed to bring forward a bill abolishing the SOMB. Deputy Director Carver discussed the recent history of the SOMB, noting that not only had the Board not met since the Governor had taken office, as she had not appointed her members to the Board, almost half of the Board's membership, but that in the years prior the Board had often struggled to achieve a quorum for its meetings. He noted that the Board was a product of its time, and that in recent years there had been virtually no one asking about its work. He added that the duties of the Board were an odd fit with the duties of the Commission. Certain duties of the Board could be assumed, when needed, by the NMSC. The bill has two sections aside from the section that repeals the SOMB statute, as the Board was mentioned by name in two other parts of the law.

Cindy Aragon added that the Board had last met in September of 2018, and the SOMB statute had only been amended twice, in 2007 and 2005, both times to add members to the Board.

Members of the Commission asked whether there would be opposition to the dissolution of the SOMB. Deputy Director Carver noted that the Department of Public Safety (DPS) was the agency that had been most active in the Board. Regina Chacon, DPS, noted that DPS would not oppose the will of the Commission in this matter, but had a concern about their work updating New Mexico's statutes in terms of Adam Walsh compliance and other possible changes to the Sex Offender Registration and Notification Act. Deputy Director Carver said that DPS would be welcome to bring any changes it thought were required to the state's sex offender laws to the Reform Committee, which could be a vector for such changes.

XII. Public Comment.

There was no public comment offered.

XIII. Next meeting.

The committee scheduled its next meeting for November 16, 2020, at 10:00 a.m., via Zoom.

XIV. Adjourn. The meeting adjourned at 11:36 a.m.