



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m.
July 21, 2020**

via Zoom

Members Present	Members Absent	Others Attending	NMSC Staff Present
Bob Cleavall, Acting Chair	Sheriff Mark Cage (House Minority)	Ellen Rabin (LFC)	Linda Freeman
Cindy Aragon (State Bar)	Hon. John Chavez	Juan Sandoval	Douglas Carver
Bennet Baur (LOPD)	Sheriff Manuel Gonzales (NM Counties)	Regina Chacon (DPS)	
Hon. Marci Beyer (DMCJA)	Anne Kelly (AGO)		
Jim Cowan (CYFD)	Paul Kennedy (NM Supreme Court)		
Mark Donatelli (Speaker)	Nina Safier (Governor)		
Claire Harwell (Governor)	Ryan Stewart (NMPED)		
Hon. Cristina Jaramillo (DMCJA)			
Celina Jones (for NM SCt)			
April Land (UNM SOL)			
Michael Lilley (Pro Tem)			
Angela "Spence" Pacheco (Speaker)			
David Schmidt (Pro Tem)			
Mark Shea (DPS)			
Martin Suazo (Pro Tem)			
Alisha Tafoya Lucero (NMCD)			

Clint Wellborn (NMDAA)			
Ron West (Senate Minority)			

I. Welcome. The meeting began at 10:03 a.m. Acting Chair Bob Cleavall welcomed members, guests, and staff to the meeting. He noted that the Commission had not met since December due to the coronavirus crisis, but he felt that the time had come for the Commission to resume its work.

II. Approval of minutes for the December 3, 2019 meeting. The minutes of the meeting were approved by consensus.

III. Staff Report.

Linda Freeman, Executive Director of the New Mexico Sentencing Commission (NMSC), informed the committee that the Juvenile Committee and the Reform Committee of the Commission had recently begun their work again after a hiatus due to the pandemic. She then discussed the cuts made to the NMSC budget in the Special Session – the budget was cut by four percent, though the grants monies were not cut. She said that she was holding some monies in reserve in anticipation of further cuts to this year’s budget in the 2021 Legislative Session. She noted that Zach Grant had left the Commission to attend law school, but that his role in coordinating the crime reduction grants would be assumed by Derek Chin, who was would be starting soon; Mr. Chin would also have some research responsibilities. She finished by informing the Commission that NMSC staff were part of two recent grants: 1) a William T. Grant Foundation proposal involving a pre-prosecution diversion program for youth through age 25 in the First Judicial District; and 2) a Justice Community Opiate Intervention Program that involved Corrections Departments in Texas and Illinois along with New Mexico.

Douglas Carver, Deputy Director, NMSC, informed the Commission that there had still been no luck in getting someone from the Public Education Department to attend Commission meetings. He also noted that District Attorney John Sugg had stepped down from the Commission, and was replaced by the House Minority Leader with Sheriff Mark Cage. Executive Director Freeman informed the Commission that Shammara Henderson had stepped down as Chair, but she would be meeting with the Governor’s office about the appointment of a new Chair at the end of the month.

IV. Re-creation of NMSC Executive Committee.

Acting Chair Cleavall opened a discussion with the members of the Commission regarding the re-formation of an Executive Committee for the Commission. In the past, the Executive Committee had operated as a kind of steering committee for the NMSC, addressing staff hires, budgets, and the establishment of Commission policies. Historically, the Executive Committee was made up of the Chair and Vice Chair of the Commission, and the Chairs of the established Commission subcommittees. Chair Cleavall proposed creating a new Executive Committee for the Commission. Members of the Commission supported the proposal.

V. Report from the Legislative Committee.

Martin Suazo, Chair, informed the Commission that the Legislative Committee had reviewed 77 pieces of legislation during the Legislative Session; six bills reviewed by the committee were signed by the Governor, and one memorial reviewed by the committee passed. None of the Joint Resolutions reviewed by the committee were passed by the Legislature. He noted that the Commission may, before the next Legislative Session, want to review the way the Legislative Committee votes on legislation that comes before the committee for discussion.

VI. Report from the Justice Information Sharing Council.

Executive Director Freeman informed the Commission that JISC was changing its focus to act as a kind of supervisory and advisory body over the work of the crime reduction grants and the other criminal justice data integration efforts being undertaken in the state. The first priority would be the state identification number project, as well as working with jails to get integration of county information aligned with the wider data integration effort. There will also be a substantial effort to backfill historical data once the new projects come on line. In addition, JISC will be looking at grants between agencies, and monitoring how information is used.

VII. Report from the Juvenile Committee.

Bob Cleavall, Chair, informed the Commission that the Juvenile Committee had met on July 10, 2020. At that meeting the committee continued its work examining the issues that have arisen due to the closing of most of the state's juvenile detention facilities, with particular focus on transportation of the children and education in the facilities. He noted that the committee planned to establish a working group to examine issues with serious youthful offenders and youthful offenders, and would also be examining areas of the Delinquency Act that might need amending, and examining the lack of referrals in the juvenile justice system and the drop in utilization of Juvenile Drug Courts.

VIII. Report from the Sex Offender Management Board.

Mr. Carver, Acting Chair, reported to the Commission that the SOMB was still awaiting the Governor's appointments. Executive Director Freeman informed the Commission that she had again raised the matter of the missing appointments with the Governor's office.

IX. Report from the Grants Committee.

Martin Suazo, Chair, informed the Commission that the Grants Committee had disbursed the first round of grants under the Crime Reduction Grant Act last year. Executive Director Freeman noted that last year's grants had to have a data integration focus, due to how the monies for the grants were appropriated by the Legislature, but that almost all of the Judicial Districts in the state had received a grant in some form. She added that while there was approximately \$370,000 available for grants last year, this year there was only \$178,000. This year, however, grants can be made for the wider purposes in the Crime Reduction Grant Act. Grants Committee Chair Suazo added that the committee was presuming there would be more applicants for a smaller pool of money this year, but that the committee would work accordingly.

X. Report from the Reform Committee.

Angela Pacheco, Chair, informed the Commission that the Reform Committee had met twice and had decided to focus on the following areas: fines and fees; diversionary programs; issues surrounding drug laws, especially decriminalization; sentencing, particularly the habitual offender statute; and the collection of race and ethnicity data. She further informed the Commission that the committee hoped to draft legislation for introduction on the fines and fees issue.

XI. Discussion of Issues Surrounding Release of Data.

Acting Chair Cleavall introduced this topic by noting that there are a number of cooperating agencies who send the NMSC data, but problems sometimes arise when requests for data are made to Commission staff and there is a question of who the custodian of that data is. He recommended that the Commission develop a policy for how data from cooperating agencies are shared. Executive Director Freeman added that her biggest concern was to maintain the Commission's credibility, and that much of the data NMSC staff receives is identified data, which raises many issues. The general rule Commission staff have been using, she said, was that if the NMSC staff create a record, then it is the Commission's information, but if we are not the custodian of a record or of particular data, then we refer any request for that information back to the

custodian. Deputy Director Carver added that the Inspection of Public Records Act was clear that the custodian of a record was the entity responsible for releasing that information, if it is eligible for release; and that the statutes that govern the NMSC's acquisition of information from other agencies specify that information received by the Commission maintains the confidentiality it had in the agency that originally had the information. Executive Director Freeman and Deputy Director Carver both stated that this would be a good topic for the Executive Committee to address.

Members of the Commission asked questions about and discussed whether the "Commission" receiving information applied solely to staff or to Commission members as well; the need for the Executive Committee to formulate a policy; Federal regulations concerning confidentiality of certain information that might impact some of the data being discussed; and the confidentiality provisions required by the Institutional Review Board process.

XII. Public Comment.

There was no public comment offered.

XIII. Next meeting.

The committee tentatively scheduled its next meeting for August 25, 2020, at 10:00 a.m.

XIV. Adjourn. The meeting adjourned at 11:08 a.m.