



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m.
October 7, 2021**

via Zoom

Members Present	Members Absent	Others Attending	NMSC Staff Present
Bob Cleavall, Vice Chair	Hon. Edward Chavez (retd.), Chair	Cynthia Pacheco (AOC)	Linda Freeman
Marit Andrews (for PED)	Corey Adams (CYFD)	Daniel Landsman (FAMM)	Douglas Carver
Cindy Aragon (State Bar)	Sheriff Mark Cage (House Minority)	Regina Chacon (DPS)	Amanda Armstrong
Bennett Baur (LOPD)	Claire Harwell (Governor)	Amber Farrell (FFJC)	Jamey Cook
Jason Bowie (DPS)	Michael Lilley (Pro Tem)	Cisco McSorley (Adult Probation & Parole Board)	Nancy Shane
Hon. Daniel A. Bryant (DMCJA)	Martin Suazo (Pro Tem)	Monica Ault (FFJC)	
Karen Cann (NMCD)	Ron West (Senate Minority)	Hon. Warren Walton	
Hon. John Chavez (NM SCt)			
Jason Clack (AOC) (NM SCt)			
Megan Dorsey (for House Speaker)			
Sheriff Glenn Hamilton (NM Counties)			
Brady Horn (NM SCt)			
Anne Kelly (AGO)			
April Land (UNMSOL)			
Anita Mesa (BHSD)			
Angela "Spence" Pacheco (Speaker)			

Nina Safier (Governor)			
David Schmidt (Pro Tem)			
Hon. Fred T. Van Soelen (DMCJA)			
Clint Wellborn (NMDAA)			

I. Welcome and Introductions. The meeting began at 10:03 a.m. Vice Chair Bob Cleavall welcomed members, guests, and staff to the meeting.

II. Approval of minutes for the August 26, 2021 meeting. The minutes of the meeting were approved by unanimous vote.

III. Staff Report.

Linda Freeman, Executive Director, New Mexico Sentencing Commission (NMSC), informed the Commission that she had made a presentation to the Legislature’s interim Economic Development and Policy Committee on September 14, 2021 as part of a panel concerning private prisons, along with Dr. Brady Horn, a member of the Commission. She also informed the Commission that the Commission’s budget hearing in front of the Legislative Finance Committee (LFC) was scheduled for October 28, 2021, and that the annual audit process for the prior fiscal year had begun. Finally, she let the Commission know that a new research scientist, Grace Cairo, had been hired to supplement the research capacity of Commission staff.

IV. Report from the Criminal Code Update Committee.

Committee Chair Angela Pacheco informed the Commission that the committee had formed seven working groups to work on the following areas: child abuse and neglect statutes; sentencing structure; *mens rea*; behavioral health issues as they impact the criminal justice system; race and ethnicity data; homicide statutes; and criminal sexual penetration statutes. Aside from the working group on child abuse statutes, which had begun meeting, she was working to identify chairs for each group. The working groups have a mandate to look at the present criminal statutes, case law, and jury instructions to see how to bring the present statutes up to date or, if necessary in the eyes of the working group members, to suggest modifications to the pertinent statutes. Membership of each working group will represent a broad cross-section of the criminal justice system.

V. Approval of Legislation.

Chair Cleavall introduced this topic by informing the Commission that two of the bills – the adult fines and fees bill, and the medical and geriatric parole bill – were products of the Reform Committee. Reform Committee Chair Pacheco informed the Commission that those two bills had been unanimously approved by the Commission in the previous year. She gave the Commission an overview of how the bills had fared in the prior regular Legislative Session, noting that both bills were awaiting their final chamber vote when the Session ended. She also informed the Commission that initial outreach had been made to the Governor’s office, informing them that the Commission hoped to have these bills introduced in the upcoming short Session.

Medical and geriatric parole bill

Douglas Carver, Deputy Director, NMSC, introduced this bill, discussing its legislative history in detail, and noting that Senator Bill O’Neill has expressed an interest in continuing to carry this legislation.

Members of the Commission asked questions about and discussed the language concerning inmates convicted for first degree murder; some of the general provisions of the bill; the process that led to consensus on the legislation over the past two years; and the age of eligibility for an application under the process outlined in the legislation.

Upon a motion by April Land, seconded by Dave Schmidt, the bill concerning medical and geriatric parole was approved unanimously.

Adult fines and fees bill

Deputy Director Carver introduced this bill, discussing its legislative history in detail, including the amendments that had been made to the bill during the Session. Monica Ault, New Mexico Director, Fines and Fees Justice Center, noted that the bill incorporated principles on ability to pay and captures existing case law, especially around the requirement for an ability to pay assessment; she also discussed the provisions that change the determination of prevailing minimum wage, ensure inmates get credit for their full time incarcerated in lieu of payment, ensure that fees are applied once per case (instead of per charge), and the creation of an indigency assumption.

Members of the Commission asked questions about and discussed Section 8 of the bill (concerning the Indigent Defense Act and the imposition of court costs, fines, and fees on indigent persons), especially concerning the fines language in that section and whether this section restricts judicial discretion; how the bill affects county compliance officers; how this legislation would intersect with the proposed Reform Committee working group on fees abolition; language confusion concerning the minimum wage provisions and whether they pertained to the residence of the defendant or the court of adjudication; and how income determination intersected with the privacy interests of defendants, especially with traffic court, as at present many of these cases are handled on open telephone lines with many participants.

Upon a motion by Judge Daniel Bryant, seconded by April Land, the adult fines and fees bill as introduced in the 2021 regular Legislative Session, including Senate Judiciary Committee (SJC) amendments 4 through 9, excluding SJC amendments 1 through 3 and 10, and including language clarifying that the minimum wage determination referred to “where the court is located at the time of adjudication” (in two places), was approved by all members present, with the exception of the AOC, who abstained.

Bill to create a dedicated fund for crime reduction grants

Deputy Director Carver introduced this bill, noting that creating a dedicated fund for the crime reduction grants would help considerably in tracking the dollars allocated for the grants, and would make the bookkeeping much cleaner, as at present funds for the grants are co-mingled with the Commission’s base budget. In addition, it made more sense for the funds to be non-reverting as many jurisdictions struggled to spend all of the monies granted in the time between the grant award and the end of the fiscal year. He informed the Commission that the bill concept had the support of both the Commission’s LFC analyst and its Department of Finance and Administration analyst. Executive Director Freeman echoed these comments, and discussed some of the delays that had affected various jurisdictions since the Commission had started awarding crime reduction grants.

The Commission asked questions about and discussed whether this bill, as it concerns financial matters, would need a message from the Governor to be introduced in a short Session.

Upon a motion by Dave Schmidt, seconded by April Land, the bill to create a dedicated fund for the crime reduction grants was approved unanimously.

VI. Public Comment.

There was no public comment offered.

VII. Next Meeting.

The committee scheduled its next meeting for the beginning of December 2021.

VIII. Adjourn. The meeting adjourned at 11:32 a.m.