



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m.
December 15, 2022**

Project ECHO, Albuquerque

Members Present	Members Absent	Others Attending	NMSC Staff Present
Bob Cleavall, Acting Chair	Sheriff Mark Cage (House Minority)	Darryl Ackley (NM Tech-ICASA)	Linda Freeman
Cindy Aragon (State Bar)	Hon. John Chavez (NM SCt)	Monica Ault (FFJC)	Amanda Armstrong
Regina Chacon (DPS)	Gregory Gaudette (Senate Minority)	Amber Farrell (FFJC)	Grace Cairo
Hon. Daniel A. Bryant (DMCJA)	Sheriff Glenn Hamilton (NM Counties)	Karen Cann (NMCD)	Douglas Carver
Bennett Bauer (LOPD)	Claire Harwell (Governor)	Tamar Ginossar (UNM ISR)	Angelica Gurule
Jason Clack (AOC)	Brady Horn (NM SCt)		Nancy Shane
Mark Donatelli (Speaker)	Anne Kelly (AGO)		Keri Thiel
Alisha Tafoya Lucero (NMCD)	April Land (UNMSOL)		
Clint Wellborn (NMDAA)	Alisa Lauer (CYFD)		
	Michael Lilley (Pro Tem)		
	Anita Mesa (BHSD)		
	Angela "Spence" Pacheco (Speaker)		
	David Schmidt (Pro Tem)		
	Martin Suazo (Pro Tem)		
	Hon. Fred T. Van Soelen (DMCJA)		

I. Welcome and Introductions. The meeting was called to order at 10:14 a.m. Acting Chair Bob Cleavall welcomed members, guests, and staff to the meeting.

II. Approval of minutes for the October 26, 2022 meeting. The minutes of the meeting were reviewed, but could not be approved as there was not a quorum.

III. Staff Report.

Linda Freeman, Executive Director, NMSC, informed the Commission that after the Commission's vote at their last meeting to request New Mexico becoming a Justice Counts state with the Council of State Governments, the process was initiated and New Mexico was accepted as a Justice Counts inaugural state. Commission staff will assist Justice Counts with the initial readiness steps, which will include outreach to NMSC members who might be interested in the project.

Executive Director Freeman also informed the Commission that Commission staff had participated in panels for the Legislature's interim Courts, Corrections, and Justice Committee (CCJ) and the Legislative Health and Human Service Committee on the results from the jail and prison task force.

She also informed the Commission that the second round of crime reduction grant funding has been awarded at a meeting of the Grants Committee in early November. In addition, some of the grantees from the first round of funding were informed that some of the monies granted to them were being pulled back as these projects did not seem as if they were on pace to spend the monies granted by the end of the fiscal year, and any monies not used would have to be reverted. The monies pulled back were reallocated to other projects.

Nancy Shane, Research Director, NMSC, informed the Commission that there were six research projects that had been published and on the Commission's website, or would be soon: the Prison Population Profile, the Prison Population Forecast, the Time Served in New Mexico Prisons report, the Earned Meritorious Deductions Report, the length of stay study for jails, and a literature review on evidenced-based strategies to ameliorate street violence. In addition, the quantitative study of the Rio Arriba County Re-Route program (the county's LEAD program) will be finished soon.

Douglas Carver, Deputy Director, NMSC, informed the Commission that the Commission's medical and geriatric parole bill, the fines and fees bill, the bill making changes to the Crime Reduction Grant Act, and the bill making changes to the Commission's data-collection statute had all received endorsements from CCJ. The bill making changes to the Traffic Code was not endorsed.

He also informed the Commission that he and Kim Chavez Cook, Law Offices of the Public Defender, who is Chair of the sentencing structure working group of the Commission's Reform Committee, had made a presentation to CCJ on the proposed restructuring of the state's felony structure. The proposed restructuring was well-received by the CCJ members in attendance.

Members of the Commission asked questions about and discussed the Re-Route program conclusions and the jail and prison task force report.

IV. Legislation for Commission Consideration. (*voting item*).

Bills to be considered.

➤ Changes to Commission Data Collection Statute

Deputy Director Carver presented the bill to the Commission, informing them that the principal changes were to clarify that juvenile and behavioral health data were included in the statute, and to add that information on the statewide criminal justice data-sharing network, the DataXchange, was also included.

Members of the Commission asked questions about and discussed privileged information; data sovereignty and the state's tribe, nations, and pueblos; what problems Commission staff had encountered in getting data; data concerning competency and sealed cases; and data retention and storage.

The Commission approved the bill by unanimous vote.

V. Legislative Committee

Executive Director Freeman informed the Commission that the Legislative would hold its first meeting in person in Morgan Hall of the State Land Office in Santa Fe. Subsequent meetings would be held over Zoom. As normal, the Commission would meet every Tuesday beginning with the first Tuesday after the Legislative Session began, and finishing on the Tuesday after the bill introduction deadline.

VI. Fines and Fees Research

Research Director Shane; Grace Cairo, Research Scientist, NMSC; and Angelica Gurule, Research Scientist, NMSC, presented their report "Fines and Fees for Misdemeanor Cases in New Mexico". They noted that there was growing concern among policy-makers nationally about the impact of fines and fees, as they were unstable source of revenue for programs and had significant collateral consequences for people with fewer resources. Their study looked at people who had at least one misdemeanor conviction between FY2016 and FY2021, a total of 373,520 cases. From this population they drew a sample of 100-300 cases per Judicial District, resulting in looking at 2,154 cases. They also conducted a closer look at a subset of 300 cases within that sample to examine the extent of accumulation of debt over that period. What is not included in the analysis is any required donations to charity, paying for DUI interlock devices, class costs, reimbursements, or any similar financial obligations that people might have.

Their study showed that 9 to 25% of defendants are highly burdened by fines and fees. At least 12% had contacted the court over one time, which was likely an undercount. Of the subset of the sample, 12% owed over \$1,000. Of the 2,154 cases, 84% were traffic cases. The gender breakdown was 66% male and 34% female. The average charge for fines and fees was \$157. In addition, 31% of the cases had bench warrants. Of the traffic citations, 88% paid solely monetarily; 12% combined some jail time, community service, or the like. Other types of crimes had a mixture of paying solely monetarily and other types of sanctions. When the study looked at how long it takes people to pay their penalty, 54% paid within 30 days, while 25% take 90 days or more. The time to pay increased with the size of the sanction. Those who take three years or more to pay have an average of an extra \$213 in bench warrants. People who pay off their obligations with jail time or community service take the longest to pay.

The analysis found that 80% of cases involved at least one court action, and 11% required five or more court actions. In addition, 88% of cases involved defendants having one contact with a court, while 12% required multiple court contacts.

The study showed that 12% of defendants accumulated \$1,000 or more in fines and fees. Furthermore, each additional case added \$200 on average to someone's obligations. The study also found that 50,000 to 60,000 licenses have been suspended for failure to pay an obligation, which is a high burden.

Members of the Commission asked questions about and discussed what burden there was on law enforcement to collect these obligations, serve warrants, and the like; the impact of bench warrants; the use of bench warrant sweeps; changes around driver's license suspension; the problems posed by driver's license revocation; whether Municipal Courts were included in the study (they were not); the costs to counties for putting people who cannot pay their obligations in jail; differing impacts on some cultural communities, especially those that do not speak English; and the volume of cases that were traffic cases.

VII. Public Comment.

There was no public comment offered.

VIII. Next Meeting.

The Commission will hold its next meeting on April 20, 2023.

IX. Adjourn.

The meeting adjourned at 11:51 a.m.