



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m.
October 26, 2022**

via Zoom

Members Present	Members Absent	Others Attending	NMSC Staff Present
Bob Cleavall, Acting Chair	Hon. Daniel A. Bryant (DMCJA)	Ben Shelor (CSG Justice Counts)	Linda Freeman
Cindy Aragon (State Bar)	Sheriff Mark Cage (House Minority)	Madelyn Roman-Scott (CSG Justice Counts)	Douglas Carver
Jason Bowie (DPS)	Gregory Gaudette (Senate Minority)	Antoine Brunson (CSG Justice Counts)	Jamey Cook
Hon. John Chavez (NM SCt)	Alisa Lauer (CYFD)	Stephanie Villanueva (CSG Justice Counts)	Nancy Shane
Kim Chavez Cook (LOPD)	Angela “Spence” Pacheco (Speaker)	Dennica Torres (LOPD)	Keri Thiel
Mark Donatelli (Speaker)	Martin Suazo (Pro Tem)	Brendon Gray (LFC)	
Sheriff Glenn Hamilton (NM Counties)	Hon. Fred T. Van Soelen (DMCJA)	Tamar Ginossar (UNM ISR)	
Claire Harwell (Governor)		kmosehauer (unknown – on line)	
Brady Horn (NM SCt)			
Anne Kelly (AGO)			
April Land (UNMSOL)			
Michael Lilley (Pro Tem)			
Anita Mesa (BHSD)			
Cynthia Pacheco (AOC)			
David Schmidt (Pro Tem)			
Alisha Tafoya Lucero (NMCD)			
Henry Valdez (NMDAA)			

I. Welcome and Introductions. The meeting was called to order at 10:03 a.m. Acting Chair Bob Cleavall welcomed members, guests, and staff to the meeting.

II. Approval of minutes for the August 17, 2022 meeting. The minutes of the meeting were approved by unanimous vote.

III. Staff Report.

Linda Freeman, Executive Director, NMSC, informed the Commission that the Strategic Plan working group had met two weeks earlier and finalized a draft, which will be presented to the Commission soon. She also informed the Commission that the NMSC's budget hearing in front of the Legislative Finance Committee had been the prior week. The reception was positive, and there was not any pushback on the additional funding requested for the crime reduction grants. She further informed the Commission that the Grants Committee would meet again on November 9th to award the second round of crime reduction grants. She also let the Commission know that Commission staff had attended the behavioral health summit sponsored by the Administrative Office of the Courts, where they had a table presenting information about the crime reduction grants.

Keri Thiel, Staff Attorney NMSC, informed the Commission that while at present it was unclear what the final number of second round grant applications there would be, five had been submitted; a further 18 had begun the application process. The possible requests total \$1.5 million, a greater amount than is available to be awarded.

Douglas Carver, Deputy Director, NMSC, let the Commission know that the Criminal Code Update working groups were proceeding with their work apace. He also complimented Staff Attorney Theil and Nancy Shane, Director or Research, NMSC, for the tremendous amount of work they have done with the crime reduction grants.

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

Bills to be considered.

- Geriatric and Medical Parole (from the Reform and Criminal Code Update Committee)

Deputy Director Carver informed the Commission that this bill was the same as the one the Commission has supported the past two years, drafted with the assistance of the Department of Corrections and the head of the Parole Board, the exception that the subsections of the bill had been reordered. Secretary of Corrections Alisha Tafoya Lucero told the Commission that she still approved of the bill.

Upon a motion by Secretary Tafoya Lucero, seconded by Kim Chavez Cook, Law Offices of the Public Defender, the Commission approved the bill by unanimous vote.

- Adult Fines and Fees Reform (from the Reform and Criminal Code Update Committee)

Deputy Director Carver informed the Commission that this bill was the same as the one the Commission supported the past year, and was substantially similar to the one the Commission supported two years ago. He noted that he had met with the Administrative Office of the Courts (AOC) and Monica Ault, New Mexico Director of the Fines and Fees Justice Center, to discuss AOC's objections to the bill, but the AOC still had objections to particular sections of the bill. He also noted that he understood that the AOC would

be putting forward a bill to abolish court fees, and that he would work to ensure the Commission's bill, were it supported, would operate in concert with that bill, but that as no draft bill has been made available, it was unclear how the Commission's bill might mesh with the fee abolition bill. He further noted, in response to critiques of the bill, that the part of the bill that required an assessment of an ability to pay was required by court rule, and that the bill does not require any additional hearings, but that assessments of ability to pay would be required at the time of sentencing.

Cynthia Pacheco, AOC, expressed the concern that the bill as drafted complicates processes, which could extend the time a person is engaged with the court. It would especially complicate the option to have court-related issues settled by mail or over video conference. The bill would also limit the discretion of judges in setting payment plans. Ms. Pacheco said that the better solution would be for court fees to be abolished completely. She added that the AOC agrees with the expanded community service provisions. She also noted that there was a fee that paid the bond on the Bernalillo County Metropolitan Court that might not be able to be abolished

Members of the Commission asked questions about and discussed that the bill's strengths included the wider options for community service and the improved conversion rates; that anything that makes the court system more complicated does a disservice to those before the court; that the bill from the AOC proposing elimination of fees has not yet been made available for review, so it was not clear how the Commission bill would read with such a bill; that it was important to continue to distinguish between the Commission bill, which concerns fines and fees, and the proposed AOC bill, that only addresses fees; that the Commission bill was the product of three years of discussions and consensus and the Commission should continue to support the bill; that the AOC has shifted its position from supporting this bill to abstaining on it to opposing it over the past three years; and that the AOC bill and the Commission bill could be reconciled during the Legislative Session through the Commission's Legislative Committee process.

Upon a motion by Mike Lilley, seconded by Kim Chavez Cook, LOPD, the Commission approved the bill by a vote of 12 for, two against, and two abstaining.

➤ Changes to Traffic Code (from the Reform and Criminal Code Update Committee)

Magistrate Judge John Chavez informed the Commission that the purpose of this bill was to remove the possibility of 90 days incarceration from the default penalty in the Traffic Code. He said that Staff Attorney Thiel had gone through the Traffic Code and found almost 100 statutes where the default penalty would apply. Because of the possible exposure to incarceration, someone charged with one of these offenses could call on the resources of the LOPD; the District Attorney's office and the police officer who made the citation might also be required to prosecute. This could lead to a significant expenditure of criminal justice resources for relatively minor offenses involving, for example, insurance, registration, or other paperwork offenses. He noted that this would not affect crimes like driving under the influence, where a penalty is specified in a particular statute. Judge Chavez said that he had polled members of the Magistrate Judge's Association and there were no objections to the legislation.

Upon a motion by Dave Schmidt, seconded by April Land, University of New Mexico School of Law, the Commission approved the bill by unanimous vote.

➤ Changes to Crime Reduction Grant Act

Deputy Director Carver informed the Commission that this bill had three principle purposes: to clean up some language in the Crime Reduction Grant Act so that the language in the Act accurately reflected how the Act worked in practice; to expand the purposes of the Act to include support for data integration

initiatives; and to create a non-reverting fund, modelled on the fund created for the Violence Intervention Program Act the past Legislative Session, for the crime reduction grants. The proposed language removed the retention and recruitment purpose from the list of purposes for which grants can be awarded, but after Commission discussion, it was decided to leave that purpose in the Act.

Upon a motion by Mike Lilley, seconded by Sheriff Glenn Hamilton, the Commission approved the bill by a vote of 10 for, none against, and three abstaining.

➤ Changes to Commission Data Collection Statute

Action on this item was postponed until the Commission's next meeting, as time ran out at this meeting.

V. Council of State Governments Justice Center Justice Counts Initiative. (*voting item*).

Executive Director Freeman informed the Commission that there had been a presentation on the Justice Counts initiative at the recent National Association of Sentencing Commissions conference. She reached out to the Council of State Governments about the initiative as it seemed that it would be complementary to the data integration work with which the Commission is tasked.

Ben Shelor, Deputy Program Director, Justice Counts, informed the Commission that the intent of Justice Counts was to make sure that data in the criminal justice system worked better for everyone. It is a national initiative, funded by the Department of Justice's Bureau of Justice Assistance, with a 27-member steering committee and 21 national partners.

Vibha Venkatesha, Senior Policy Analyst, Justice Counts, noted that Justice Counts would not mandate anything new. Instead, the initiative leverages existing tools to help provide impartial cross-agency analysis. It is a data initiative not a policy initiative, to help spot trends and see what is working.

Mr. Shelor continued that there were four principal components to Justice Counts: to provide consensus-driven metrics; to deploy a suite of tools and resources to share metrics; to support states and agencies to implement the Justice Counts framework; and to support states and agencies in using the metrics to make policy decisions. The metrics are the core, designed to be feasible for agencies to adopt and useful for policymakers and agency leaders. In New Mexico, there is already a significant amount of data that is collected – Justice Counts will provide a cross-sector view of this data across the entire criminal justice system. Mr. Shelor informed the Commission that seven committees were utilized in creating the metrics: law enforcement, prosecution, defense, courts, jails, prisons, and community supervision. There are six categories of information: capacity and costs, population movements, operations and dynamics, public safety, equity, and fairness.

Ms. Venkatesha informed the Commission that Justice Counts provides tools to share these metrics, not replacing anything but providing a cross-sector view. States can provide feedback in real time, and control definitions that are used and how information is shared.

Mr. Shelor informed the Commission that there will be ten founding Justice Counts states. Each will get 12 months of intensive technical assistance to coordinate the work and bring agencies on board, and to improve data literacy and use by policymakers. There are a number of pathways to become a Justice Counts state, one of which is a request by a committee or commission of criminal justice stakeholders in a state. The NMSC is precisely the necessary body for New Mexico. A letter from the Commission requesting to join the

initiative would suffice to begin the application to join as a Justice Counts state. Mr. Shelor also noted that there would be no direct cost to the state to join the initiative.

Members of the Commission asked questions about and discussed the utility of having better access to data; whether Executive Director Freeman supported joining the initiative (she does); and what next steps might be required.

Upon a motion by Dave Schmidt, seconded by Mike Lilley, the Commission unanimously approved becoming part of the Justice Counts initiative.

VI. Public Comment.

There was no public comment offered.

VII. Next Meeting.

The Commission will hold its next meeting sometime in December after the final Courts, Corrections and Justice interim committee meeting on December 8. NMSC staff will poll members to settle on a date that works best.

VIII. Adjourn.

The meeting adjourned at 12:02 p.m.