



**Minutes of the Meeting of the
New Mexico Sentencing Commission
10:00 a.m.
September 13, 2023**

Children, Youth, and Families Complex, Indian School Rd., Albuquerque

Members Present	Members Absent	Others Attending	NMSC Staff Present
Bob Cleavall, Chair	Hon. Daniel A. Bryant (DMCJA)	Melanie Martinez (NMCD)	Linda Freeman
Cindy Aragon (State Bar)	Sheriff Mark Cage (House Minority)	Haven Scogin (NMCD)	Amanda Armstrong
Bennett Bauer (LOPD)	Hon. John Chavez (NM SCt)	Andrea Sandoval (NMCD)	Douglas Carver
Jason Clack (AOC)	Gregory Gaudette (Senate Minority)	Lupe Sanchez (NMCD)	Jeremey Seymour
Megan Dorsey (designee for Mark Donatelli, Speaker)	April Land (UNMSOL)		Nancy Shane
Jackee Garcia (designee for Jason Bowie, DPS)	Michael Lilley (Pro Tem)		Keri Thiel
Claire Harwell (Governor)	Anita Mesa (BHSD)		
Brady Horn (NM SCt)	Sheriff Mike Reeves (NM Counties)		
Hon. R. David Pederson			
Angela “Spence” Pacheco (Speaker)			
David Schmidt (Pro Tem) (<i>carrying proxy for April Land</i>)			
Greer Staley (designee for Raul Torrez, AGO)			
Martin Suazo (Pro Tem)			

Alisha Tafoya Lucero (NMCD)			
Clint Wellborn (NMDAA)			

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

II. Approval of minutes for the April 20, 2023 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, Deputy Director Douglas Carver, Commission Chair Bob Cleavall, and Commissioners Cindy Aragon and Angela Pacheco attended the annual conference of the National Association of Sentencing Commissions in Stateline, NV. A highlight was a presentation from the Virginia Sentencing Commission about the impact of and challenges brought on by recent changes to their state’s probation statutes. There was also a good panel on second look resentencing opportunities in different states.

Executive Director Freeman also informed the Commission that she had been invited by the Governor’s office to participate in a summit on housing stability and crime. The summit included numerous actors from across the criminal justice system.

Executive Director Freeman then gave an update on the budget that was approved by the Commission through electronic vote. The budget request contains an increase to the Commission’s base budget. There is a request for an additional \$330,000 to fund two FTEs: a program manager for the crime reduction grants, and to keep Staff Attorney Keri Thiel in her position (her position is currently funded in part by the expiring special appropriation the Commission received for the Criminal Code Update). There is also a request for an additional \$150,000 to make the Commission whole from absorbing increases in salaries and benefits mandated by the Legislature in recent years. As the Commission’s FTEs are not state employees, those raises are not automatically incorporated into Commission budgets as happens with other state agencies. The Commission is also planning on requesting a special appropriation of \$4 million for the crime reduction grants, as the requests in recent cycles for grants has far exceeded the monies available to award. Executive Director Freeman let the Commission know that all of these increases have been discussed in a meeting with the Commission’s analysts from the Legislative Finance Committee (LFC) and the Department of Finance and Administration, who supported the Commission making these requests.

Nancy Shane, Research Director, NMSC, updated the Commission on the work of the Commission’s research staff. Data is being collected on the FY23 recipients of crime reduction grants, with a focus on the justice-involved people funded projects were in contact with, hiring that may have been conducted, or training sessions held or attended. The research staff is also working on three annual reports the Commission publishes: the earned meritorious deductions report, the prison population profile, and the county detention center census. In addition, the research team is working on a project to categorize crimes so that the Commission can better respond to requests concerning particular types of crimes. The research staff is also working on a program evaluation for Crossroads for Women, and a literature review concerning peer support workers. Research Director Shane further informed the Commission that she would be

attending the American Society of Criminology conference in the autumn with Commission Research Scientists Angelica Gurule and Grace Cairo, where they will be presenting some of their research.

IV. Probation and Parole Overview.

Alisha Tafoya Lucero, Secretary, New Mexico Corrections Department (NMCD); Melanie Martinez, Deputy Secretary, NMCD; and Haven Scogin, Deputy Director, Reentry Division, NMCD discussed the efforts NMCD is making to address the reentry needs of those who are incarcerated. The focus was on the work of the Probation and Parole Division and the Reentry Division. Secretary Tafoya Lucero informed the Commission that in 2019 the department made a request to the Legislature that reentry needs get a separate program code so that reentry needs could be funded separately. She has created a new director-level position to address reentry – Deputy Director for Reentry. Deputy Director Scogin is the first person to hold that position. Her position encompasses everything to do with community corrections, supportive housing, and similar programs. The focus is to support people so that they do not return to the system.

Secretary Tafoya Lucero also informed the Commission that NMCD has increased its online presence on Facebook, Twitter/X, and Instagram, and increased its press outreach. NMCD has been featured in the news recently for the increase in its graduation rates in its GED program – NMCD has outpaced every adult institution in the state for adult GED.

Deputy Director Scogin gave the Commission an in-depth overview of the work her division does to prepare inmates for reentry and to support them as returned citizens. Intervention in people's lives matter, she said. The division is involved in educational and vocational programming, as well as helping people to obtain appropriate housing. She noted that people have a huge amount of anxiety when they are about to leave prison, especially around issues like whether they can afford housing, find work, or rejoin the community. Her staff is committed to changing lives.

The division divides the state into four regions – northern New Mexico, the Albuquerque metropolitan area, the southwest part of the state, and the southeast. There are 46 district offices, with over 300 officers, serving over 3,000 clients.

An important piece of the reentry process is the exit process from an institution. Staff from the division will meet with inmates to discuss what will happen as they work towards release, discussing their visit to the Parole Board, what their exit day will look like, and the various steps that need to be taken prior to release. Around 180 days before release an exit committee is formed for an inmate to have those conversations and develop an exit plan. The committee will include behavioral health staff, education staff, a Probation and Parole officer, a transition coordinator, and others. Among the topics that are discussed are how to ensure continuity of care, especially for any necessary mental health services; housing needs; and support for returning to their family. If services are needed, the division works to ensure that they are arranged, especially for mental health and housing needs. As someone exits, the Compass assessment is consulted to see what additional services might be required. The division has a variety of officers and specialists to address an individual's needs.

Deputy Director Scogin informed the Commission that there are differing levels of supervision. Standard supervision is tailored for low-, medium-, and high-risk individuals. Intensive supervision is for those who were repeat offenders or for those who might potentially become a repeat offender. There is also a special high risk unit. The community corrections unit specializes in mental health and those with developmental delays, with a particular focus on medication maintenance, wraparound care, and housing. Sex offenders have their own different schema, with specialized treatment and GPS monitoring, contacts regulated, requirements to register, and the like. Officers also work in cooperation with specialty courts like the Drug

Court. The Recovery Academy is an option for those who need closer, on site supervision. Placements are made based on a person's assessment of their needs so that they end up in a situation that is the best for them and will put them in a position to succeed.

The Compass assessment is used both for a person's initial placement and as a road map for needs that might arise for a person after release. Many people upon release struggle with social isolation, substance addiction, persistent criminological thinking, vocational needs, mental instability, and/or employment and financial well-being. Every client's needs vary, so everyone obtains an individualized case plan created through a collaboration between the individual and the division. The case plan will include what services might be needed; what can be done to prevent substance abuse relapse, including whether outpatient or intensive or in-patient rehabilitation might be necessary; what mental health needs must be addressed; what trauma management needs might there be; what gender-specific services are required; what parent counselling or other life skills needs there might be; or what sex offender or domestic violence needs might be necessary. The pandemic saw an expansion in the use of telehealth models, which has particularly helped ameliorate the state's shortage of behavioral health providers.

In addition to the Compass assessment, someone can self-request services if they believe they have a need that is not being addressed. At times, additional needs are realized through conversations between someone and their Probation and Parole Officer. The division also works with Project ECHO to get peer support for people upon release as part of the overall reentry engagement.

Deputy Director Scogin informed the Commission that in her 15 years in the department, she has observed a growing awareness that rehabilitation takes time. Thus the department has become more flexible with how they handle violations and other setbacks. A variety of alternative sanctions or diversions have been developed, including community service, the use of curfews, writing essays about goals, or addressing issues in counselling. Violations are assessed with an eye towards risk level. People have different timetables on their journey, so the department has learned patience. Preliminary violations are reported, but that does not necessarily lead to revocations. Sometimes the response is to have interventions or recommend additional treatment, or to respond to violations with supportive services. She noted that additional referrals and treatment support are important to help an individual.

One important focus of the division's work is on education, including trade schools and community colleges. Basic health care is an additional continuing need, as is employment assistance – including both employment readiness and how to get and hold a job, so that a person can support themselves and, when necessary, their family. The hope is to connect life skills to the creation of long-term stability.

Secretary Tafoya Lucero closed the presentation with a discussion of NMCD's partnership with Project ECHO. Project ECHO has been in NMCD facilities since the early 2000s. Inmates will learn about a subject from doctors or professors, and then teach that subject to the rest of the community. There are now ECHO peer mentorships in all NMCD facilities. In 2019, NMCD started discussions with Project ECHO on how to work with those who were no longer incarcerated in NMCD facilities. They have worked out a process to hire people who have been incarcerated and done well on supervision. Project ECHO will hire a person, and NMCD pays their salary. These peer support workers will work with Probation and Parole Officers to supplement the officers' work. NMCD and Project ECHO started small, but are working towards scaling up this initiative. The goal is to have peer mentors working in all of the district officers, with an aspirational target of 46 people, though more realistically 12 to 24 people will be able to be hired in the near term. They are also looking to use the peer support process with those who are incarcerated for long terms to help give these inmates a sense of purpose.

Secretary Tafoya Lucero concluded NMCDs presentation by letting the Commission know that they are still working diligently with the Motor Vehicle Division to get identification documents for those who are incarcerated and nearing release, but it has been a complicated process. They are finally at the point where there are ID machines in all NMCD facilities so that state-issued Real IDs can be given to people upon release.

Members of the Commission asked questions about and discussed the problems in obtaining housing, for all who are released, but especially for sex offenders; the time frame in which NMCD starts working with inmates before release, and the difference between the work that is done directly to prepare someone for release versus the work NMCD does with people throughout a person's incarceration; what programs or partnerships there are that work specifically with Native Americans and tribal governments; what support there is for people to obtain phone services; what legislation might be required to facilitate NMCD's efforts (Secretary Tafoya Lucero replied that the most important are a bill to allow earlier release from supervision, and one that addresses remaining issues with licensure); and the requirements placed on people who qualify under statute as sex offenders but their crime did not involve a child.

V. Open Meetings Resolution for FY 2024. (voting item)

Deputy Director Carver presented the draft of the Open Meetings Resolution for the new fiscal year to the members of the Commission, noting that it had no changes, other than to the date, from last year's resolution. Upon a motion by Martin Suazo, seconded by Jason Clack. the Commission approved the Open Meetings Resolution by unanimous vote.

VI. Proposed Commission Policy on Proxies and Designees. (voting item)

Deputy Director Carver presented the draft policy on proxies and designees for Commission meetings. Members of the Commission discussed whether a person should be able to carry more than one proxy – the consensus was that a limit of a person carrying only one proxy was preferable. It was suggested that the language in the draft be made clearer to indicate that the policy covered both meetings of the full Commission and its subcommittees. There was also a discussion of whether the withdrawal of a proxy should also be in writing. A motion was made by Martin Suazo, seconded by Judge R. David Pedersen, to rework the draft and bring it forward for discussion at the next Commission meeting. The motion was approved unanimously.

VII. Juvenile Committee.

Cindy Aragon, Chair of the Juvenile Committee, informed the Commission that the Juvenile Committee had discussed competency evaluations for juveniles at its June meeting, focusing particularly on the time it took for evaluations and the lack of forensic evaluators in the state. The committee was informed that the reimbursement rates for evaluators had increased for both adult and juvenile evaluators. The committee also learned that there was a 5-year plan in development to get more evaluators for the state and to implement best practices.

Chair Aragon informed the Commission that at the Juvenile Committee's September meeting there was a discussion of how many children the Children, Youth, and Families Department (CYFD) was supervising, how many were being detained, and how Covid had impacted services.

The committee plans to hold its next meeting at the juvenile detention facility in Bernalillo County and to hear from the Bernalillo County's coordinator for juvenile gun violence prevention.

Members of the Commissions asked questions about and discussed whether the Governor's emergency health order had been discussed at the meeting.

VIII. Bill to Amend Juvenile Community Corrections Grant Fund. (voting item)

Chair Cleavall introduced the bill draft by noting that there is a problem with programs for criminal justice system-involved juveniles not receiving referrals. The Juvenile Committee held discussions over a series of meetings concerning how the juvenile community corrections grant fund statute might be changed so that the fund could be used for juveniles beyond the present statute's requirement that the juveniles be "adjudicated delinquents". The plan is for this to be a piece of legislation that the Sentencing Commission promotes in the upcoming Legislative Session. Juvenile Committee Chair Aragon said that the language change, which adds "youth referred by the department" (meaning CYFD) to the statute, would allow the fund to be used for programs that address the needs of juveniles who have informal cases referred to CYFD. Members of the Commission discussed and asked questions about who would be included in the referrals mentioned in the statute; who would make those referrals; concerns that the language might exclude children who need services but cannot obtain them; whether the Anti-Donation Clause might be implicated; and whether "adjudicated delinquents" should be struck.

A motion was made by Judge Pedersen, seconded by Secretary Tafoya Lucero, to have the bill drafted by the Legislative Council Service. The motion passed by a vote of 14 to 0, with two abstentions.

IX. Grants Committee.

Martin Suazo, Chair of the Grants Committee, informed the Commission that the Committee had been working to improve its processes, to account for the fact that the amounts requested had grown from under half a million dollars each fiscal year to over five million dollars. He singled out the great work of Research Director Shane and Staff Attorney Thiel. The next meeting of the Grants Committee is scheduled for November 14, 2023 to disburse round 2 of the FY24 grants.

Staff Attorney Thiel informed the Commission that the first round of crime reduction grants for FY24 funded 26 projects for a total amount of approximately \$2.8 million. There were also five extensions granted to FY23 grants. At present there were 31 active grants being overseen by Commission staff. The applications for Round 2 of the FY24 grants opened on September 1, 2023 and will close on October 20, 2023. Deputy Director Carver noted that NMSC has received approval to ask for \$4 million for crime reduction grants in the coming fiscal year; Executive Director Freeman noted that LFC had given approval to fully expend the remaining monies granted in the last Legislative Session in Round 2 of this fiscal year's grants cycle.

X. Reform and Criminal Code Update Committee.

Angela Pacheco, Chair of the Reform Committee, informed the Commission that the working group looking at criminal sexual contact and criminal sexual penetration had finished its work on the statutes concerning those two crimes and was now working on sexual exploitation of children statutes. She also informed the Commission that Commission staff was working to arrange a meeting with the leadership of the Legislature to present the proposed new felony structure to gauge support for the idea and to discuss whether it would be more appropriate for the 2024 or the 2025 Legislative Session.

XI. Public Comment.

There was no public comment offered. Reform Committee Chair Pacheco said to the NMCD personnel who were attending the meeting that she was thankful for the work that NMCD was doing, as they generally do not get enough credit for their work.

XII. Next Meeting.

The Commission set its next meeting for November 9, 2023.

XIII. Adjourn.

The meeting adjourned at 12:26 p.m.