

NEW MEXICO SENTENCING COMMISSION

JUVENILE COMMITTEE

11:00 a.m.
October 24, 2018

John E. Brown Juvenile Justice Center, Chama Conference Room
5100 Second St. NW, Albuquerque, NM

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Bob Cleavall (NMSC), Chair	Marron Lee (NMSC)	Samantha Luras (CYFD)	Linda Freeman
Hon. Marci Beyer (DMCJA) (by phone)	Cindy Aragon (State Bar)	Janet Musolf (CYFD)	Amanda Armstrong
Jim Cowan (for CYFD)	Mark Donatelli, (Speaker)	Sheriff Glenn Hamilton	Douglas Carver
April Land (UNMSOL)	Sheriff Manuel Gonzales III (NMAC)		
Traci Neff (NMAC)	Angela "Spence" Pacheco (Speaker)		
Judge William Parnall	Raul Torrez (NMDAA)		
Jason Rael (LOPD)	Hon. Marie Ward		
David Schmidt (Pro Tem)			

Welcome. Bob Cleavall, Chair, called the meeting to order at 11:17 a.m. Committee members, guests and staff introduced themselves.

Approval of Minutes for the September 4, 2018 meeting. The minutes for the previous committee meeting were approved by consensus.

Staff Report. There was no staff report.

Issues Arising from Closure of Juvenile Detention Facilities. Traci Neff, Juvenile Services Administrator, San Juan County, Sierra County Sheriff Glenn Hamilton; and Jason Rael from the Law Office of the Public Defender led a discussion concerning issues that have arisen due to the closure of many juvenile detention facilities in counties around the state.

Ms. Neff stated the problem – New Mexico is down to eight juvenile detention facilities. Counties without facilities contract with those who have facilities, which often results in children being detained in facilities far from where they were arrested and live. Amplifying this problem is that facilities under contract have the option to, and often do, refuse to house a child; this will be for reasons such as the facility has no remaining beds, or the facility has had prior negative experience with the child.

Ms. Neff gave the committee some preliminary numbers to illustrate the problem – between October 1, 2017 and October 1, 2018, there were 1,299 youth detained in counties that have facilities, but a total of 2,011 youth detained in the state. That means there were 712 youth who needed transport outside of their county.

These transportation needs have a major impact on staffing, particularly law enforcement, throughout the state. Ms. Neff stressed that she was not advocating for re-opening facilities, but, she noted, the monies that were used to operate juvenile facilities were switched to financing the adult facilities for those counties, which are a tremendous economic burden. She illustrated the burden youth transport imposes with the example of a juvenile who was held for 220 days and had five transports of six hours each; not only did that mean the child was shackled for those six hours, but the two law enforcement officers required for the transport have an additional two and a half hours added on top of that time.

Sierra County Sheriff Glenn Hamilton informed the committee that this has been an issue throughout his career as a lawman, which began when he became a deputy in 1995. He noted that there were only three facilities at all close to the counties in the southwest corner of the state. When a juvenile offender is in custody, there is no guarantee of where a bed for that juvenile might be found. The sheriff is responsible for getting the juvenile to the detention hearing, but they often will not receive notice of the need to transport until late in the evening before the hearing is to take place, or early in the morning. This requires deputies to be taken off their street patrols and other duties. In addition, there is a significant economic impact as the transportation costs – principally overtime for the officers and fuel – are an unbudgeted expense. In addition, families complain about where a child is being held, especially if the child is in long-term detention. Additionally, just because a county has a contract with a county that has a facility does not mean the bed space is guaranteed. Sheriff Hamilton also noted that despite there being a statute requiring reimbursement for transportation of state prisoners, that fund has not been funded for years.

Ms. Neff discussed the statute allowing for video hearings for juveniles. She noted that when the statute was passed, there was pushback from the public defenders, so it has not been used. A particular issue surrounds the statute's requirement that legal representation be present with the child, which poses problems with public defender representation; and the statutory language stating that no plea is allowed to be taken over video. The question is how one could possibly fix the statute, and how to work with public defenders to see whether they could represent children who do not come from their district, and, similarly, work with the district attorneys to see how they might handle prosecutions of children not from their district.

Jason Rael from the Law Office of the Public Defender stated that a child needs an attorney with them, and stressed the importance of the personal relationship between a juvenile and the juvenile's counsel. He argued that the statute cannot be fixed, but that there are provisions in statute allowing waiving a child's appearance at a hearing. He raised the issue of what role the

judge in a case might have in ensuring that there are not multiple hearings, thus requiring multiple transports. He noted that often hearings are set in order to get the parties together, which is an issue that can be solved with better communication. He suggested not setting hearings that are purposeless, informing juvenile courts across the state of the issues surrounding transportation, and examining whether certain counties that have high rates of detention of juveniles are using juvenile detention properly. He also raised the point that allowing more or easier video hearings might exacerbate the problem of attorneys not meeting with their clients. He stressed the role of the judiciary in ensuring that children get proper representation. He further noted that he canvassed public defenders on this issue and discovered that none of them would permit appearance through video. It is not a formal policy of the department, but it is opposed by the public defenders.

Members of the committee asked questions about and discussed the issues connected to an attorney being physically present at a hearing, the burden on the Public Defender's office, the quality of representation for juveniles, the connections between this issue and the Juvenile Detention Alternatives Initiative from the Annie E. Casey Foundation, the policies of judges in different courts, whether there could be a pool of beds shared between the counties with facilities and the counties without facilities, the use of the Screening, Admissions and Release Application for risk assessments and why the recommendations are overridden, the need to coordinate services statewide, the feasibility of a statewide juvenile public defender department or division, how the Children, Youth and Families Department could assist with these issues.

The discussion of this issue culminated in a decision to continue consideration of this issue at the Committee's next meeting. Members of the committee will consider what concrete proposals or solutions might be formulated to address these issues.

Next meeting. The committee scheduled its next meeting for January 11, 2019.

Adjourn. The meeting adjourned at 12:45 p.m.