

NEW MEXICO SENTENCING COMMISSION

JUVENILE COMMITTEE

12:00 p.m.
January 11, 2019

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	Cindy Aragon (State Bar)	Samantha Lucas (CYFD)	Linda Freeman
Hon. Marci Beyer (DMCJA)	Mark Donatelli, (Speaker)	Simon Suzuki (UNMSOL)	Amanda Armstrong
Jim Cowan (for CYFD) (by phone)	Sheriff Manuel Gonzales III (NMAC)	Christina Vasquez (UNMSOL)	Douglas Carver
April Land (UNMSOL)	Angela "Spence" Pacheco (Speaker)		
Traci Neff (NMAC)	Raul Torrez (NMDAA)		
Hon. William Parnall			
Jason Rael (LOPD)			
Hon. John J. Romero, Jr.			
David Schmidt (Pro Tem)			
Hon. Marie Ward			

I. Welcome. Bob Cleavall, Chair, called the meeting to order at 12:17 p.m. Committee members, guests and staff introduced themselves.

II. Approval of Minutes for the October 24, 2018 meeting. The minutes for the previous committee meeting were approved by consensus.

III. Staff Report. NMSC Executive Director Linda Freeman noted that there were two FTEs for the Commission in the Executive budget, as had been requested in the Commission's budget request. Chair Cleavall noted that Marron Lee, former Commission Chair, had resigned from the Commission.

IV. Report of the Juvenile Detention Subcommittee. Traci Neff, Juvenile Services Administrator, San Juan County, and Jason Rael from the Law Office of the Public Defender led a continuation of the discussion concerning issues that have arisen due to the closure of many juvenile detention facilities in counties around the state that was begun at the prior committee

meeting. Ms. Neff noted that the issue was not that juvenile detention facilities have been closing but how to deal with transportation issues and family contact with those who are detained. Data for FY 18 showed that there were 712 youth transported out of county. CYFD data showed that there were 674 youth who were detained in other counties who had to be transported to the eight counties with detention centers. An example of the kinds of problems that can arise is shown by one youth from Cibola County; he was in custody 220 days pre-adjudication, and was transported five times – those transport times were six, seven, 13, eight, and eight (again) hours. Ms. Neff noted that there are provisions in the Children’s Code to allow for video hearings, but the public defenders have opposed using them. She also noted that there are times when an available bed gets lost during transport. She emphasized the need for a process when a law enforcement officer makes contact with a child and reaches out to find where to hold the child.

Mr. Rael stated that a major concern is where the child’s lawyer is going to be, and how the child’s attorney can communicate with his or her client. He noted that the LOPD does use video conferencing, but that it would not be appropriate for the statutes to override the right to appear. Video appearances can have a purpose, but can’t be mandatory where a judge can override. He added that if a statutory change was to be proposed, he would recommend one that places the burden on the public defender and the court to work out an arrangement; additionally, the Legislature should consider providing funding for and mandating that there be a statewide office to coordinate representation of juveniles.

The committee had a robust discussion of issues related to the transportation of juveniles, including the shackling of juveniles for transport and in the courtroom; the lack of a requirement that transported juveniles be fed; better communication regarding the need for a hearing, especially for a child who has to be transported out of county; examining how long juveniles are detained; how to address the challenge of lack of contact and communication by defense attorneys with juvenile clients; whether it would be possible for all counties to use all of the remaining detention centers – though concerning this issue it was noted that that each county is independent and has different requirements and different rates; and how to ensure contract attorneys are brought in to any systemic changes.

V. Discussion of Proposed Juvenile Offender Legislation.

Professor April Land discussed proposed legislation to remove prostitution as a delinquent act; the bill was pre-filed and carries bill number HB 56, sponsored by Rep. Gail Chasey and Rep. Christine Trujillo. The Committee fully supported the legislation.

Chair Cleavall and Dave Schmidt discussed a bill to bring back the old Juvenile Parole Board; the bill, which was not yet finished being drafted by Legislative Council Service, will be carried by Sen. Bill O’Neill. The Committee fully supported the proposed legislation.

Mr. Schmidt also discussed a bill concerning sentences of life without parole for juveniles and parole review for long sentences for crimes committed as a juvenile. The bill would write a ban on sentences of life without parole for children into state law, enshrining the United States Supreme Court’s *Miller* decision; would establish a regimen for regular review for parole eligibility for juveniles who committed offenses that result in long sentences; and would require the Parole Board to review the current population of inmates who are incarcerated in the state prison system for crimes committed as juveniles to see whether any were eligible for the process

outlined in the legislation. The bill will be carried by Sen. Bill O'Neill. The Committee fully supported the proposed legislation.

Judge John Romero discussed a bill that would require earlier tribal notification when a child member of a tribe, nation, or pueblo has been charged with a delinquent act. The bill was pre-filed and carries bill number HB 149, sponsored by Rep. Georgene Lewis. The Committee supported the legislation, with Mr. Rael and Prof. Land abstaining.

The Committee also discussed two issues that did not have pending legislation.

The first concerned the confidentiality and sealing of records of juvenile proceedings. Members of the Committee discussed how there appeared to be inconsistent application of the relevant statutes, and some confusion as to what aspects of a record were sealed and from whom. Judge Marci Beyer made a motion, seconded by Ms. Neff, that there be legislation to make the statutes regarding the confidentiality of juvenile records clearer. The motion passed with no objections.

The second concerned continuity of care for children in the system, particularly surrounding the switching of medications when a child cycles in and out of detention or residential treatment centers. No action was taken on this matter.

Next meeting. The committee left open the time for its next meeting, to be scheduled sometime shortly after the end of the Legislative Session.

Adjourn. The meeting adjourned at 1:59 p.m.