



**Minutes of the Meeting of the  
Juvenile Committee  
10:00 a.m.  
April 3, 2024**

**Children Youth and Families Department Pinetree Complex,  
Building 4, Room 143  
4501 Indian School Rd. NE, Albuquerque**

<b>Committee Members Present</b>	<b>Committee Members Absent</b>	<b>Others Attending</b>	<b>NMSC Staff</b>
Cindy Aragon, Chair	April Land (UNMSOL)	Dr. Bronwyn Neeser (BHSD)	Linda Freeman
Bob Cleavall, NMSC Chair	Ramona Martinez (Pro Tem)		Amanda Armstrong
Sheriff Glenn Hamilton (ret'd.) (NM Counties)	Angela "Spence" Pacheco (Speaker)		Douglas Carver
Krista Lawrence (Governor)			Keri Thiel
Bridget McKenney (NMDAA)			
Scott Patterson (CYFD)			
David Richter (LOPD)			
Hon. Alma Cristina Roberson (Children's Court)			

**I. Welcome and Introductions.** Cindy Aragon, Chair, called the meeting to order at 10:07 a.m.

**II. Approval of Minutes for the September 12, 2023 and November 16, 2023 meetings.** The meeting minutes for the last two Committee meetings were approved by unanimous vote.

**III. Staff Report.**

Linda Freeman, Executive Director, New Mexico Sentencing Commission (NMSC), informed the Committee that the Commission had recently hosted the second convening for crime reduction grant recipients and members of Criminal Justice Coordinating Councils. She also informed the committee that the next meeting of the Grants Committee to disburse Round 1 of the FY25 grants would be on April 9. Douglas Carver, Deputy Director, NMSC, added that four Representatives had attended the convening. Members of the Committee had a brief discussion of the grants application process.

#### **IV. Discussion of Juvenile Legislation from 2024 Legislative Session.**

Deputy Director Carver informed the Committee that the discussion in the Roundhouse during the Legislative Session revealed that the Governor did not wish to see any juvenile legislation or legislation involving the Children, Youth, and Families Department (CYFD) during the Session, which was likely the reason that there were very few juvenile-related bills heard or passed during the Session. Two bills, both which were covered by an Executive Message, that concerned juveniles (in part) were passed by the Legislature and signed by the Governor. The first was SB 2, which made a variety of changes to the statutes concerning cannabis regulation. Among the statutory changes in this long bill were the addition of a new subparagraph in the definition of “delinquent act” to include “trafficking in cannabis as provided in Section 26-2C-28 NMSA 1978” as a delinquent act. The second was SB 152, which made changes to the requirements for background checks for the Early Childhood Education and Care Department and CYFD. Deputy Director Carver informed the Committee that the bill proposed by the Commission concerning the Juvenile Community Corrections Fund was caught up in the Governor’s wish to restrict bills concerning juvenile justice.

Members of the Committee asked questions about and discussed the Commission’s bill, the Governor’s desire not to have the Legislature consider juvenile justice bills during the Session, Juvenile Justice Advisory Committees, and the few juvenile justice bills that had some traction during the Session even if they were not passed by the Legislature. The Committee will look at those bills at its next meeting.

#### **V. Issues Around Competency and Juvenile Justice.**

Bronwyn Neeser, Psy.D., Forensic Director, Behavioral Health Services Division (BHSD) introduced herself to the committee, noting that she has been working with BHSD on policy initiatives. In particular, she has been working with CYFD on issues surrounding forensic evaluations. She told the Committee that while competency itself in the criminal justice system is a challenging issue, it is extra-challenging when dealing with juveniles. Some states do not have a separate competency schema for juveniles; they merely mirror the adult system. Yet competency involving juveniles involves a developmental component that goes beyond what must be considered for adults. Questions have to be asked concerning the meaning of “maturity”, and how it might be measured.

In New Mexico, Dr. Neeser said, competency means that the person is sufficiently present to have an ability to consult with their attorney, understand the proceedings, assist in their defense, and understand the reasons for any punishment. The juvenile standard mirrors the adult standard, though the Children’s Court has its own rules around competency. Issues to consider with juvenile competency include how do these standards apply to youth? What does having a rational understanding of what is happening apply to children? Additionally, children often follow authority, so what does it mean for a child to understand something like a plea agreement?

Dr. Neeser informed the Committee that there was no consensus in the literature around what competency looks like for juveniles. When someone is working with kids, she added, there should be a different specialization and focus. Factors to consider include: immature judgement; the capacity for rational decision-making; the misperception of risk and consequences, especially legal consequences; the greater likelihood of a willingness to acquiesce to authority; and the influence of peer pressure. Additionally, justice-involved youth have high rates of substance abuse and behavioral health issues, ADHD, PTSD, and related, often overlapping, issues.

Dr. Neeser continued by noting that there was not a lot of guidance in New Mexico’s statutes concerning juvenile competency. The state has moved from rehabilitation to a more punitive system, largely due to a lack of community-based resources. The system is also struggling with deciding whether it is safer for a juvenile to be placed in detention or to remain in their home environment. Detaining children adds to the already excessive demands on the justice system, and there is an impact on the community as youth who are confined are more likely to recidivate, even more so than with adults. Confinement also interferes with education and employment,

and has a lifelong impact on mental health development, but the state does not have the resources to divert juveniles from confinement or properly support their re-entry.

When considering competency reforms, the following needs to be kept in mind, according to Dr. Neeser: ensuring that constitutional rights are protected, including educating those involved on people's rights; supporting rehabilitative options versus punitive options; and addressing the long-term impacts of juvenile justice system involvement on youth, the community, and the juvenile justice system itself.

Dr. Neeser noted areas where the NSMC could assist in this work: helping with amending statutes, helping with the education of judges, and basic system support. She concluded by letting the Committee know that when a juvenile is found not to be competent, the case is dismissed. Any required restoration has to take place out of state, as there is not an in-state option. A dismissed case no longer has judicial oversight, and instead CYFD is required to step in to provide wraparound services and family support.

Members of the Committee asked questions about and discussed how to build out the workforce for handling juvenile competency; the number of competency evaluators for juveniles (there are four on contract); the recent increase in reimbursement rates; presenting information on juvenile competency to the Judicial Conclave; the differences between adjudging competency, restoring someone to mental health, and amenability; educating defense counsel and prosecutors on the issues around juvenile competency; the pros and cons of telehealth; the use of one opinion versus two opinions, as is the case in Arizona; the difficulty in recruiting people with the proper qualifications to do this work in New Mexico; the vetting for quality control and uniformity across judicial districts; the possible creation of a centralized system of evaluators for the state; funding for work around competency and related issues (whether CYFD or the courts); whether changing the statutes around competency would make it harder to find providers; the lack of training in this field in New Mexico universities; and the lack of providers to do amenability work.

#### **VI. Committee Work Plan for 2024.**

Chair Aragon suggested that during the year the Committee might want to look at trends noted by prosecutors and defense attorneys in the juvenile justice system; issues surrounding restoration; and further explore competency.

#### **VII. Possible Committee Legislation for 2025 Legislative Session.**

Deputy Director Carver noted that the bill that the Committee had sponsored the prior year concerning changes to the juvenile community corrections grant fund had not received a message during the 30-day Legislative Session, so the Committee might want to consider bringing that bill back. He also mentioned that in past years the Committee had expressed an interest in looking at issues concerning confidentiality in the juvenile justice system. Deputy Director Carver said that he would pull together a list of juvenile legislation that seemed to have some traction during the past Legislative Session to see whether any of those bills would interest the Committee. Chair Aragon mentioned that it would be interesting to look at where the juvenile justice system intersects with sex offender registration laws.

**VIII. Next Meeting.** The Committee tentatively scheduled its next meeting for the week of June 17, 2024. Committee members will be polled to see which day of that week would work best.

**IX. Adjourn.** The meeting adjourned at 11:39 a.m.