



Minutes of the Meeting of the Reform Committee

10:00 a.m.
July 8, 2020

via Zoom

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Angela “Spence” Pacheco, Chair	Neal Bowen (BHSD)	Ellen Rabin (LFC)	Linda Freeman
Bennett Baur (LOPD)	Karl Brooks (AOC)	Megan Dorsey	Douglas Carver
Collin Brennan (AGO)	Claire Harwell	Mark Probasco (AGO)	
		Cynthia Pacheco (AOC)	
Mark Donatelli		Eric Harrison (NMCD)	
Patricia Galindo (for AOC)		Kim Chavez Cook (LOPD)	
April Land (UNMSOL)		Jennifer Birmingham	
Mike Lilley		Philip Larragoite (LOPD)	
Nina Safier		Barron Jones (ACLU)	
Alisha Tafoya Lucero (NMCD)		Kandace Littlefoot	
Clint Wellborn (AODA)		Maggie Shepard	
		Cyndi Sanchez	

I. Welcome and Introductions. Angela Pacheco, Chair, called the meeting to order at 10:05 a.m.

II. Approval of Minutes for the January 13, 2020 meeting. The minutes for the previous committee meeting were approved by consensus.

III. Staff Report. Douglas Carver, Deputy Director of the New Mexico Sentencing Commission (NMSC), informed the committee that SB 8 from the Special Session, the police reform bill, had been signed by the Governor.

Linda Freeman, Executive Director of the NMSC, discussed the budget cuts made to the Commission during the Special Session as part of budget cuts across state government. The NMSC received a four percent cut, amounting to approximately \$49,500. She noted that while the Commission can absorb that cut, she was anticipating further cuts later as the financial pinch on the state continues.

She also noted that she has been working in partnership with Dr. Noah Painter Davis of the University of New Mexico and Probation and Parole Director Melanie Martinez of the New Mexico Corrections

Department to make the recidivism report more robust by calculating recidivism rates for different types of releases, such as parole versus probation versus discharge, as well as distinguishing between males versus females, factoring in prior criminal histories, and regional office breakdowns. She said that the hope was to produce the revised report in September.

Ms. Freeman also informed the committee that NMSC staff had made a successful transition to working from home, and that staff was awaiting university approval for the submitted transition plan to allow staff to return to their offices on a rotating basis on alternate days.

IV. Possible Work Plan for 2020.

Chair Pacheco opened the discussion by noting that the Special Session of the Legislature had given a preview of what might be expected in the regular Legislative Session in the area of criminal justice reform. The committee had a robust discussion of various ideas, as follows:

- Many members discussed modifications to the Hate Crimes Act, including how the Act intersects with other statutes, so that in certain cases a penalty might be lower if the Act is invoked.
- A number of members noted that it would be useful to examine the changes that have been made to the criminal justice system since the Covid-19 crisis began, to see whether any of these changes could be made permanent without negatively affecting public safety, with particular emphasis on dropping case loads, and changing practices in prosecution and policing. There was discussion concerning whether we could capture before and after data to illustrate the changes, both on a municipal and county level.
- There was discussion of whether to continue the committee's work on probation and parole reform. While members of the committee acknowledged that the committee itself had made substantial progress before the 2020 Legislative Session, drawing close to a final compromise, their work was not reflected in the bill that was introduced. Additionally, it was unclear whether there was appetite in the Legislature to tackle the issue again, particularly considering the fraught, and ultimately failed, journey probation and parole reform had in the 2020 Session. The committee was reminded that they do have the option to have a bill drafted and find a sponsor to carry it.
- There was discussion of how to tap into the energy around criminal justice reform that has been occurring across the nation, particularly in light of the nationwide protests against racial injustice and problems with policing.
- There was discussion concerning the need to collect data on the race and ethnicity of those enmeshed with the state's criminal justice system in order to get a better sense of how the system impacts different communities in the state. It was noted that the committee had informed the Legislature that it would be undertaking this work this year.
- There was discussion of examining the Community Corrections Act and controlled release, and how these options are being utilized.
- There was discussion of privacy concerns with the body camera legislation in SB 8, with specific reference to statutes that had passed in Colorado and Nevada that seemed to address privacy issues in a more robust fashion.
- The committee also discussed looking more broadly at police reform, especially possible legislation surrounding excessive force claims, building on the ideas proposed in SB 100 from the 2020 Legislative Session; the need for special prosecutors to examine such claims was particularly acute. It was noted that New Mexico has the highest number per capita of police deaths in the nation. There was a question of how police reform fit within the statutory mandates given to the NMSC.
- A number of members discussed how the state's habitual sentencing laws needed to be re-examined, especially with how they interact with drug possession cases.

- A number of members also raised the issue of the use of fines and fees in the criminal justice system. It was generally agreed that not only do these fines and fees impose another burden on offenders who are hoping to reintegrate lawfully into society, they often end up being a cost loser for jurisdictions, as the cost to incarcerate someone for failure to pay fines and fees exceeds the gain the jurisdiction realizes from the offset for incarceration against the amount owed. It was mentioned that issuing warrants for failure to pay also generated its own fees. Many members discussed the challenges of addressing these issues in a climate of tight state budgets. The differences between mandatory fines or fees and discretionary ones were also discussed. A number of members noted the importance of getting the Fines and Fees Justice Center, who have opened an office in New Mexico, involved with any possible reform effort in this area. There was also a discussion of the data that was available or could be collected around this issue.
- Some members discussed the legalization of marijuana; it was noted that the Governor has raised the failure of the Legislature to pass a legalization bill in public comments since the end of the Legislative Session, particularly in light of the state's present fiscal crisis. There was also broader discussion of the need to look at the larger scope of statutes addressing drug use.
- There was also discussion of an examination of diversion programs, including Drug Courts and other specialty courts, focusing on which counties had them and whether they were working. Members also mentioned that a look at diversion programs should include pre-arrest diversion.

In addition to the specific potential reform topics discussed, there was also discussion of the need to involve the leadership of the Legislature and the Governor's office in the work of the committee. It was noted that state government keeps forming various commissions and task forces that focus on work that the Reform Committee is, or should be, doing. The need to interact with the Legislature's interim committees was stressed, and the fact that there will be a number of new members in the 2021 Legislative Session, which will make the fate of any criminal justice reform difficult to ascertain. It was noted that there was increasing interest by the Uniform Law Commission in criminal justice reform efforts.

Additionally, there was discussion on the importance of data collection to assess areas of possible reform, and to be able to track the effects of any reform initiatives, including impacts on budgets and funding.

Ms. Freeman said that she would create a poll for members drawn from the issues mentioned in the meeting to assess the level of interest by members in each of the topics discussed.

There was also discussion of how much of the committee's work needed to be approved by the full NMSC.

V. Next Meeting. The committee scheduled its next meeting for 10:00 a.m., January 16, 2020.

VI. Adjourn. The meeting adjourned at 12:08 p.m.