

**OCTOBER 29, 2019 PRESENTATION TO LFC REGARDING CRIMINAL JUSTICE
REFORM**

INTRODUCTION:

The criminal justice system in New Mexico is fragmented. Participants to the criminal justice system and agencies supporting those participants have varying levels of autonomy, accountability, resources and overlapping jurisdiction. Historically, these actors have been left to fend for themselves and to compete not just to accomplish their often divergent missions but to prevail in policy arguments or lobby for resources. Elected officials are then asked to choose between competing requests for funds without sufficient and real time information on the effectiveness, now and in the future, of programs being funded. Not surprisingly, there is quite a bit of duplication in the system and an inability to evaluate, in real time, whether programs being implemented are “best practices” and are working as anticipated based on objective, data-based, evaluations.

Last session, in a variety of bills, but most importantly HB 267, this structure was changed. Participants, if they ask for funds, are encouraged to work as a group to develop strategies, programs and requests for funding. At the local level, this involves 13 criminal justice coordinating councils around the state that include all of the actors present in the criminal justice system for that area. At the state level, this involves the New Mexico Sentencing Commission which, by statute, includes all of the relevant agencies and branches of government.

This year and for the next few years, resources are being devoted to assist in setting up systems where all of the actors to the criminal justice system will be “on the same page”. This means setting up one data program that all of the participants will be able to access. This will eliminate the current and costly duplication to the system and will allow substantive programs to be evaluated in real time across the state. The same measurements can be used to eliminate the guesswork or a historical “look back” that is now commonly employed in determining whether or not programs are working.

This memorandum is a description of the structure being implemented by HB 267, what has been done by the participants to the criminal justice system consistent with HB 267 and what is being requested to continue in this effort.

I. LFC Draft Report 9/27/19 – Criminal Justice Reform

- Findings of LFC are based on over a decade of research on criminal justice reform and reflect opportunities for cost savings, improving outcomes and funding what works;
- Recommendations are on expanding evidence-based programs through a “*competitive grant process*”;
- Goals include swift and certain justice; reduce recidivism; use most effective programs;
- Recommendations include early childhood programs such as home visiting; LEAD (Law Enforcement Assisted Diversion); pretrial services – specialty courts such as drug courts; programming within corrections facilities – education, therapeutic communities and vocational education; reentry programs; work with Behavioral Health Collaborative to prioritize treatment; offender employer services; HB 564 – prioritize revision of technical parole revocation policies;
- **“ENSURE DATA DRIVEN AND EVIDENCE-BASED POLICYMAKING ACROSS THE CRIMINAL JUSTICE SYSTEM”**;
- Must have assessment of needs and have program oversight with valid and reliable tools – **“BUILD CAPACITY FOR BEST PRACTICES”**.

II. The Challenges

- As noted in the LFC report “crime, prison populations, and recidivism remain high in New Mexico.”
- How to set up structure to ensure data driven and evidence-based policymaking across the criminal justice system as LFC suggests and research shows works;
- Numerous actors in the criminal justice system: Courts, DAs, PDs, law enforcement, corrections, probation and parole, behavioral health, medical systems, CYFD and education;
- Each have their own systems – silos and ideas as to how to solve problems
- Numerous programs at every level – education, law enforcement, prosecutors, defenders, courts, corrections, post corrections – how to evaluate what works;

- Cannot rely on the entity receiving the money to evaluate own success – not objective – example of 2nd Judicial district attorney’s office.

III. Set up Structure to Address the Challenges

- First – ID every person in the system with live scans and tracking numbers;
- Second – Work on Data – so that everyone is on the same page;
- Third – insist on programs that are evidence based and rely on best practices;
- Fourth – set goals for these programs;
- Five – Have a method to evaluate whether the goals are meet in an independent, objective way;
- Goal: To set up reforms through a multi-stakeholder governance structure (CJCCs at local level, NMSC at state level) in order to incorporate input from subject matter experts into resource allocation decisions, not only to lead to more targeted decisions but also to enroll their buy-in to reduce bureaucratic friction and give those decisions the best chance for success.

IV. HB 267 – ID and Tracking Numbers

- HB 267 provided that DPS have funding for live scans – for biometrics – including fingerprints and creation of both an arrest number assigned to arrest and state personal identification number to identify a person arrested and charged with a crime – the identifier is assigned to same person regardless of the number of times the person is arrested or the location of the arrest and a tracking number for each arrest;
- Allows DPS biometric information to align with state tracking number throughout the criminal justice system;
- With \$300,000 in funding through HB 2 – DPS was able to purchase 14 live scans with final units delivered by December 9, 2019 – each machine costs \$18,266 – and training will take place at the location. The expectation is that is will improve collection of electronic biometric information from 55% of arrests currently to 95% or more, which is essential to improve downstream information processing post-arrest;
- Sites include Otero County Sheriff; Ruidoso Police; Chaves County Sheriff’s; Valencia County Detention Center; Clayton Police; Guadalupe County Detention; Eunice Police; Jal Police; Artesia Police; Valencia County

Sheriff's; McKinley County Sheriff's; Luna County Sheriff's; and Rio Arriba County Sheriff's;

V. **HB 267 – Step One: Criminal Justice Coordinating Councils**

- Right now, part of the problem is that everyone is not on the same page
- Start at local level;
- 13 judicial districts – each with a criminal justice coordinating council – includes the courts, DA, PD, law enforcement, jails, corrections, behavioral health program and other agencies and/or entities agreed upon by the councils (See Map);
- Initially set up by Supreme Court – now in statute; CJCCs chaired by District Chief Judge to assure full buy-in and sufficient credibility to convene, encourage discussion, and necessary follow-up;
- Role of these councils is to develop plans to identify criminal justice problems in the district; develop data-driven policies to improve safety outcomes and cost-effective responses to crime and apply for grants

VI **HB 267 – Step Two: Sentencing Commission (NMSC)**

- Criminal Justice coordinating councils send requests for grant funding to the Sentencing Commission;
- Members on NMSC include the criminal justice actors and various secretaries including – corrections, DPS, CYFD, PED, representative from behavioral health, native American representative, victims, and persons appointed by Governor and leadership in house and senate and Supreme court;
- Sentencing Commission only neutral entity in criminal justice system – AOC agrees NMSC in best position to make grants; and CJCC's are best places to gather stakeholders' views and reflect them to NMSC;
- NMSC is uniquely situated to evaluate requests for money, make sure they are based on best practices, require data and evaluate based on data;
- Specifically – among many other tasks – required to “encourage and accomplish information sharing among criminal justice agencies and criminal justice coordinating councils” and “provide data analysis”.

VII HB 267 – Step Three: Grant Administration Agencies

- Definition: “A state agency that receives appropriations for grants to criminal justice coordinating council members for the purposes specified in the Crime Reduction Grant Act.”
- Such grants include – treatment and supervision alternatives to incarceration; pre-prosecution diversion or specialty court programs; pretrial services; training;
- Must use evidence based best practices;
- Collect data to evaluate effectiveness of programs operated with crime reduction;
- Evaluate quarterly.

VIII HB 267 – Step Four; NM Tech involvement

- Anticipate working with sentencing commission in developing systems to analyze shared data so that all CJ system stakeholders can evaluate programs; NM Tech will be able to participate as an equal with all other justice partners in this effort.
- NM Tech has a budget of \$459,000 and is not asking for new money. Tech is assisting in the implementation of the state identification number into the criminal justice system. N.M. Tech is also expected to apply its world-class data analytics expertise to provide analysis on those projects which may be needed by any criminal justice partner. A shared CJ data system for both management and analytics will help connect local stakeholders to each other, and to N.M. Tech’s analytic capacity.

IX What has been happened since passage of HB 267 and related legislation in 2019

(DPS received \$300,000 in non-recurring funds for the previously described live scans);

Also:

A. Criminal justice coordinating councils

Virtually all of the criminal justice coordinating councils are up and running.

B. Sentencing Commission

Had a competitive grant process – evaluated applications from 11 of the 13 districts;

Had \$178,500 in recurring funds and \$218,500 in non-recurring funds for Crime Reduction Grants. With these funds, NMSC made the following awards:

Judicial Districts	Funding	Description
1 st	\$95,000	Share data between criminal justice and Behavioral health stakeholder of CJCC
2 nd	\$77,152	For hiring of a data coordinator – current Priority is to develop tool to track custody Status
11 th	\$30,000	Seed money to automate a current, paper-Heavy process initiated at every arrest
AOC automated (10 district Sponsors)	\$125,000	Data platform that will allow easier processing of court data (discussion below)
8 th	\$20,000	Funding to assist stakeholder of each CJCC
12 th	\$25,000	Partner to access data from AOC platform
13 th	\$ 5,000	

C. AOC

Received \$713,500 in recurring funds and \$218,500 in non-recurring funds for pre-trial services.

D. AODA

Received \$300,000 for pre-prosecution diversion programs (to replace the fact that defendants will no longer have to pay for the services).

E. N.M. Tech (through NMSC)

Have budgeted \$459,000 in non-recurring money for data infrastructure

F. Total Allocated:

\$1,702,000 in recurring money;

\$ 737,000 in non-recurring money;

Total of \$2,439,000 (spreadsheet is attached)

X The Requests that are being made going forward:

Note: There are three broad goals. First, the criminal justice system and the participants to the system need to be operating on the same data platform. Currently, each major participant uses their own system which does not necessarily communicate with each other. We need them to be on the same page. Second, a structure should be implemented which will allow public resources to be spent in the most efficient manner which uses best practices and allows an evaluation of programs once implemented. This will allow policy makers to determine what works, what does not, what can be improved and where programs might be most effective. And, finally, the programs themselves should have goals such as reducing recidivism, identify those people who can be assisted and provide swift and certain justice. Currently, the programs being proposed are:

A. AOC

Ten of the thirteen Criminal Justice Coordinating Councils applied successfully to the NM Sentencing Commission's Grants Committee to support launching the pilot of a statewide data-sharing platform. They are asking for \$500,000 annually in going forward with the program. The platform currently being piloted by AOC will allow all justice system partners to access court data in an automated and useable way. Currently, people can only access court information on a case-by-case basis. A shared data platform will expand participating system partners' capacity to comprehensively access data in automated and batch form. So, for example, there will be no need for separate calendars and search features are available. It allows agency data to flow in real time and other entities can customize the data to their needs. In the future, a platform like this has the potential to incorporate data from all other justice partners as well. In year 4, partners may even be able to open information to the public including non-profits, universities and data analysts via the platform. The FY21 initial data-sharing platform appropriation ask is coming from AOC, but depending on progress, in the future it may make more sense for the NM Sentencing Commission to directly govern such a platform, including not just overseeing funds but also implementing an appropriate multi-stakeholder governing structure that incorporates both state agency and local CJCC viewpoints. Meanwhile, this platform will enable technical advisors and researches like New Mexico Tech to leverage their sophisticated, real-time analytics capabilities while tailoring them to both individual stakeholder and CJ system needs.

B. Sentencing Commission

The sentencing commission is asking to expand its FY21 funding for data integration by \$571,500 to a total of \$750,000 for additional grant proposals which does not include funding for additional administrative or staffing costs. This amount is intended to keep pace with the demands of the coordinating councils for data integration needs designed to provide more efficient services for its communities.

The Sentencing Commission is also requesting one-time funding in the amount of \$1,000,000 to begin pilots of the other crime reduction grant programs authorized by HB267 that were not funded in FY20: treatment and supervision alternatives to incarceration; pre-prosecution diversion and specialty court programs; and equipment and training.

C. Granting Agencies

A number of cabinet secretaries are jointly presenting to LFC in November on proposals in behavioral health. For those programs in the criminal justice field, these are the agencies that will know what are the “best practices” and can set goals for the programs. NMSC will then make sure that a data platform is used to evaluate whether the goals are being met and can evaluate the effectiveness of such programs based on data compiled in real time. The Departments will have a hand in this both as the granting agencies and because they are statutory members of the Sentencing Commission.

By way of example, some the programs which will be proposed by the Cabinet Secretaries in the criminal justice field are:

HSD - Support counties in addressing behavioral health care needs of people who are involved in the criminal justice system, including housing needs.

HSD and NMCD – peer support workers who will engage those existing state prisons and ensure they obtain needed services

HSD – provide training, technical assistance and linkages to experts around the country while covering medication costs initially

HSD – Community based programs that addresses needs of people with substance abuse problems who commit low level crimes and divert them into treatment in lieu of incarceration

DOH – counselors who support MAT (Medical assistant treatment) and alcohol programs

CYFD – develop a validated screening instrument that will support CYFD and providers in appropriately identifying human trafficking victims

CONCLUSION

The state is entering into a period where several items have converged at once. First, there has always been a tendency to keep information within a certain agency or department. This “silo problem” has been compounded by the ability of individual actors to procure their own data vendors and operate separately from others. Now, however, the technology is available to allow all

actors in the criminal justice system to be on the same page. And, with the assistance of the NMSC and NM Tech, those systems can be put to efficient use. Second, the actors in the criminal justice system are recognizing that they need to work together to address crime effectively. The coordinating justice councils were created from both the judiciary and the legislature working together and the Cabinet Secretaries are jointly presenting to the LFC on programs such as those described here – a coordination which is both new and positive. Third, with the diminution of our behavioral health system came a rise in crime but also an opportunity to rebuild a system which more effectively manages the limited resources consistent with best practices and evaluated by data. Finally, the structures now in place came together in a bi-partisan manner. This is a relatively new development which recognizes that the most efficient use of public dollars means that those who are entering the criminal justice system should face swift and certain justice but also, for those who qualify, services should be provided which can return them to a productive life outside of the penal institutions. We now have almost 30 years of understanding that simply locking everyone up is expensive and can actually make things worse.