

**THIRD JUDICIAL DISTRICT COURT
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO**

**D-307-CV-2019-01611
(Miscellaneous)**

IN THE MATTER OF: THE CRIMINAL JUSTICE COORDINATING COUNCIL

**AGENDA
THIRD JUDICIAL DISTRICT
CRIMINAL JUSTICE COORDINATING COUNCIL**

July 19, 2023

12:00 P.M. TO 1:00 P.M.

Chair: Judge Joel Cano, Doña Ana County Magistrate Court
Chief Judge Conrad F. Perea, Third Judicial District Court

AGENDA:

Called to order at 12:00 pm

Roll Call

Agency	Member
<i>Third Judicial District Court</i>	Chief Judge Perea, Brandi Sanchez, Jodie Delgado
<i>Dona Ana Magistrate Court</i>	Judge Cano, Judge Duffin, Jackie Douglas
<i>Anthony Municipal Court</i>	Mary Munoz
<i>Hatch Municipal Court</i>	
<i>Las Cruces Municipal Court</i>	Judge Filosa, Judge Goldbaum, Milissa Caldwell
<i>Town of Mesilla Municipal Court</i>	Ramona Molina
<i>Sunland Park Municipal Court</i>	Maria Rubio
<i>Third Judicial District Attorney's Office</i>	Gerald Byers, Joseph Cairns
<i>Law Office of Public Defender</i>	Kristofer Knutson
<i>Dona Ana Sheriff's Department</i>	Sheriff Kim Stewart, Captain Jon Day
<i>Las Cruces Police Department</i>	Lieutenant Peter Bradley
<i>New Mexico State Police Department</i>	
<i>New Mexico State University Police Department</i>	
<i>Sunland Park Police Department</i>	
<i>Anthony Police Department</i>	Chief Vanessa Ordonez
<i>Mesilla Marshall's</i>	
<i>Hatch Police Department</i>	Chief Timothy Thornton
<i>Dona Ana County Codes Enforcement</i>	Bryan Hulsey
<i>Dona Ana County Detention Center</i>	Bryan Baker
<i>Dona Ana County Defense Bar</i>	Michael Stout
<i>Mesilla Valley Regional Dispatch</i>	Robert Milks

<i>CYFD</i>	
<i>City of Las Cruces</i>	
<i>Dona Ana County Compliance</i>	Chelo Guerrero
<i>Memorial Medical Center</i>	
<i>Community Service Corps</i>	Mary Martinez White
<i>Behavioral Health</i>	Joel Diemer
<i>La Casa, Inc.</i>	Melissa Mata
<i>Department of Finance & Administration</i>	
<i>Adult Probation and Parole</i>	
<i>Dona Ana County Health & Human Services</i>	
<i>New Mexico Coalition Against Domestic Violence</i>	Flor Gonzalez
<i>New Mexico Sentencing Commission</i>	
<i>Other</i>	Larissa Duran

1. Approval of June Minutes

- a. Michael Stout motions for approval
- b. Judge Goldbaum seconds
 - i. Approved at 12:06 pm

2. Honorable Joy E. Goldbaum, Las Cruces Municipal Court

a. Admission of Judge Anthony Filosa as CJCC Voting Member

- i. Advises Judge Filosa is on the line for introduction
- ii. Advises she was a part of CJCC before it became CJCC and was an original voting member. She indicates her term in ending soon.
- iii. Introduces Judge Filosa to CJCC and advises he start in May 2023.
- iv. Requests/motions to have Judge Filosa replace her as a CJCC Voting Member
- v. **Michael Stout** seconds motion
- vi. **Judge Cano** indicates no opposition & asks if Judge Filosa has anything to add
- vii. **Judge Filosa** indicates he has nothing to add, and thanks Judge Goldbaum for mentorship
- viii. **Judge Cano** welcomes Judge Filosa aboard CJCC

3. Honorable Rebecca Duffin, Dona Ana County Magistrate Court

a. Evictions & Appeals of Landlord/Tenant Cases

- i. Advises that at previous CJCC meeting (May) the Magistrate Court received calls from landlords, tenants & DASO regarding this matter
- ii. Advises there are two items that can be appealed monetary portion or eviction portion
- iii. Advises clerks are unable to provide legal advice
- iv. Advises tenants filing appeal on monetary judgment, but not following process to appeal eviction then showing this notice of appeal on monetary judgment to deputy & the deputy is not following through with eviction
- v. Advises in order to appeal eviction the tenant has to post bond with the Magistrate Court and then will receive a document called a Stay of Execution of Writ of Eviction
- vi. Advises if tenant does not have that document they have not followed proper procedure to stay eviction & writ should be executed on date indicated on writ
- vii. Tenants are taking steps to appeal monetary judgment which then they have the notice of appeal to show the deputy and they are not being evicted, but then they

- end up back at Magistrate Court for new eviction
- viii. **Major Day** indicates the Legal Division within DASO does look for Stay of Eviction & questions Judge Duffin if there a specific case this is occurring on, because aware that Sergeant Ballard's unit only stops on a Stay of Execution Writ
 - ix. **Judge Duffin** indicates she is unaware of any recently, but she knows this came up back May and hasn't seen any since then, but believes there was some confusion in legal community about process
 - x. **Major Day** indicates do work with landlords or property management, but some will give to deputy out in field & those deputies direct to office to follow process
 - xi. **Judge Duffin** indicates they advise to go to DASO to make payment and have deputy assist execution of writ; asks if any questions on topic
 - xii. **Judge Cano** indicates topic primarily made to sheriff's department and courts, but welcomes any questions; if not, Judge Duffin may proceed to second item

b. Magistrate Court Attorney Window & Filings

- i. Advises one individual who works attorney window & Magistrate Court is understaffed like a lot of other state agencies
- ii. Advises working as quickly as possible & a lot of frustrated attorneys that are being short & rude with staff
- iii. Advises clerk is one person & there is some misconception about attorney window
- iv. Advises clerk is looking at case for any actionable items that need to be handled with case & this can take a little bit of time
- v. Advises attorneys are filing motions less than twenty-four (24) hours before hearing & becoming frustrated when it is not in judge's file the next day which is not always possible
- vi. Requesting attorneys to have patience & use the window responsibly
- vii. Requesting offices like LOPD & DA to notify court if filing large batches of pleadings so there is help for window to process these pleadings as quickly as possible
- viii. Reiterates to use attorney window appropriately
- ix. **Jackie** indicates Judge Duffin covered everything, but has noticed a large amount of Substitution of Counsel pleadings & they are time consuming. States last week it took four (4) individuals to catch up on pleadings & this is not doable by one person. Advises do not reach out to Shawna instead to reach out to Jackie directly or the Management Team
- x. **Judge Cano** indicates to attorneys this topic may not pertain to you, but if there is room for improvement just take it in that way; recommends to file early not late & emergencies are preventable
- xi. **Judge Cano** asks if there any questions for Judge Duffin or Jackie Douglas; if not, Flor Gonzalez may proceed to next item on agenda

4. Flor Gonzalez, CCR Organizer with NM Coalition Against Domestic Violence

a. Introduction as CCR Organizer for Dona Ana County & Request Continuation as CJCC Member as CCR Organizer

- i. Advises of wants introduce self as CCR Organizer for Dona Ana County, previously Director of Support Services at La Casa and has been a member of group for about a year
- ii. Requests attendance in new role, will be working directly with members & focusing on domestic violence efforts within county
- iii. Introduces new Director of Support Services at La Casa, Melissa Mata
- iv. **Melissa Mata** introduces self, states comes from Deming, and very excited to be a part of CJCC
- v. **Judge Cano** asks Flor to remind CJCC what CCR is abbreviated for

- vi. **Flor Gonzalez** indicates it is Community Coordinated Response
- vii. **Judge Cano** asks if a new program
- viii. **Flor Gonzalez** confirms it is a new program; Dona Ana County elected as one of three focus sites; will be working in collaboration with La Casa and other stakeholders to look at domestic violence in the area to see what can be done to help survivors & hold offenders accountable
- ix. **Flor Gonzalez** indicates this will involve multiple meetings, looking at holding three (3) day CCR academy with a specialized in person academy for Dona Ana County, and the possible dates will be in January or February
- x. **Judge Cano** welcomes Melissa Mata aboard CJCC and advises Flor Gonzalez she can remain members of CJCC
- xi. **Judge Cano** asks if there any questions for Flor Gonzalez or Melissa Mata; if not, Chief Judge Perea may proceed to next item on agenda

5. Honorable Chief Judge Conrad F. Perea, Third Judicial District Court

a. Local Rule 3-303 Sanctions

- i. Advises would like to discuss brief portion of Local Rule 3-303
- ii. Advises want to give background on Local Rule; it was implemented on June 14, 2023 & effective immediately as ordered by NM Supreme; it is a rule that has been worked on since August of 2022
- iii. Advises requested changes, but not all changes implemented & now have rule before district
- iv. Advises District Attorney Gerald Byers has appropriately written letter regarding subject of dismissal & recharging of cases to case agents, victims & witnesses; states exactly what District Attorney's office and Court is facing; in paragraph number 2 he states District Court has indicated will follow rule as directed by NM Supreme Court; states in letter DA's office has right to recharge cases because dismissed without prejudice & they will be doing that
- v. Advises have been utilizing rule for about a month; have had share of difficulties; aware both DA & LOPD have had challenges with rule
- vi. Advises want to focus on sanctions that law enforcement agencies and parties could face regarding rule; Deadlines are very quick; Disclosure by law enforcement officials indicate sending of evidence within fifteen (15) days after arraignment & could cause some issues
- vii. Most difficult aspect is on Subsection S; titled Failure to Comply; law enforcement agencies should be aware of because these failures to comply could mean dismissal of case with prejudice; Subsection S gives many aspects as to what sanction could be; it could be monetary fine to law enforcement agency and/or law enforcement office
- viii. Requests permission from CJCC to submit letter to law enforcement agencies to make them aware these sanctions do exist; want it to come from courts this is possibility; these strict guidelines & their compliance is mandatory could result in sanctions
- ix. **Michael Stout** motions for permission to issue letter
- x. **Judge Cano** request second on motion; Lieutenant Bradley second motion
- xi. **Judge Cano** reiterates movement with a second that Judge Perea will construct letter that would inform law enforcement agencies within third judicial district about sanctions in accordance to Rule LR 3-303 page 21 paragraph S captioned Failure to Comply; questions if anyone opposes
- xii. **Major Day** states things occur throughout criminal justice system for example: things get lost or misplaced; asks if there is a way for officers to show proof that they provided information to different offices within criminal justice system prior to sanctions being levied
- xiii. **Judge Perea** indicates yes; states criminal judges at Third Judicial District Court will hold hearing to hear what is going on & states situations do occur; advises a hearing would be appropriate & should be fairest way to proceed

- xiv. **Sheriff Stewart** states concern is some cases are being dismissed due to no discovery not being providing; asks how will that be handled
- xv. **Judge Perea** states when looking at those arguments they are heard in courtroom on the record, many times do not hear from law enforcement officials, but from prosecutor; states when looking at a situation limited information is heard & determinations are made; states dismissal is made in court & blame itself not made in courtroom but comes through argument; indicates writer of order will indicate summary of argument & it does go around law enforcement, but does come from prosecutorial team
- xvi. **Judge Cano** provides an example of a time when a defense attorney wanted to use language in the Magistrate Court setting on a misdemeanor case where it was indicated the rule was retroactive, but could not provide the applicability; asks if this is only applicable to District Court in felony matters
- xvii. **Judge Perea** states it absolute is; refers to LR 3-303 Subsection A, this rule applies in all criminal proceedings in the Third Judicial District Court & does not apply to probation violations; reiterates does not apply to Magistrate Court; advises for argument could say this local rule only applies to Third Judicial District Court; reiterates District Court has rule not Magistrate Court; advises nowhere in rule does it say it is retroactive application & effective immediately on June 14, 2023
- xviii. **Judge Cano** states there has been lively conversations about rule & majorly applicable to law enforcement & District Attorney's office
- xix. **Gerald Byers** states very familiar with major law enforcement agencies, but others that have ability to file; states would suggest/recommend getting letter to them as well
- xx. **Judge Perea** states appreciates suggestion, considered NM Livestock Board and Game & Fish, but not Attorney General; states great recommendation from DA Byer
- xxi. **Judge Perea** approves motion from Michael Stout that was seconded by Lieutenant Bradley
- xxii. **Judge Perea** states letter is written and will include approval from CJCC
- xxiii. **Bryan Hulsey** requests inclusion of receiving letter; states there are some felony level animal cruelty cases
- xxiv. **Judge Cano** states any agency that files in District Court will receive copy of letter from Judge Perea
- xxv. **Michael Stout** wants to thank Judge Perea for offering to do this letter; suggests to include answers to all questions & importance of team concept in letter
- xxvi. **Judge Perea** states that is appropriate & will include in letter as it is included in the rule
- xxvii. **Chief Thornton** wants to reinforce what Sheriff Stewart stated; states have had number of cases dropped for lack of discovery, but no discovery requests have been made to law enforcement agencies; states couple of cases important to community with good evidence that have been dropped due to lack of discovery but no request for discovery was made; states not sure what can be done to ensure notification to law enforcement agencies for request of discovery
- xxviii. **Judge Perea** states need to look at definition of prosecutorial team; reviews three powers, judicial branch, executive branch & legislative branch; states it would be improper to say you should do this with the District Attorney; recognizes how it does work & belongs to District Attorney as chief law enforcement official
- xxix. **Judge Cano** indicates hopes to decrease anxiety to law enforcement agencies feels pretty certain law enforcement agencies will have due process; states review internal processes & procedures and maybe tweak them
- xxx. **Gerald Byers** appreciates court has identified a due process aspect of information finding prior to imposition of sanctions; CMR does not discuss sanctions for defense & sanctions are directed toward prosecution team; states that was an issue with construction & Supreme Court included in development

- xxxi. **Gerald Byers** clarifies after CMR was imposed did meet with law enforcement officials & informed of parameters along with possibility of sanctions; states strongly encourages to get case off desk & move discovery through; states to work with law enforcement to meet deadlines; states potential for sanctions is minimized & will work diligently as a team
- xxxii. **Judge Cano** ask if any questions for Gerald Byers
- xxxiii. **Kristofer Knutson** states do not agree there's no possible sanctions for defense bar if party fails to comply; states believe defense is a party & may be sanctioned
- xxxiv. **Michael Stout** asks about Grand Jury & Preliminary process; states everywhere in state is conducting Preliminary hearings except for this district & part of the problem is to change that; asks if there is any thought about increasing Preliminary hearing participation & decreasing Grand Jury; states in rule there is one day provision for Grand Jury
- xxxv. **Judge Perea** indicates rule contemplates Preliminary examination under Subsection C, requires mandatory hearing pending preliminary examination for defendants in & out of custody; states currently working on that scheduling & criminal judges do not want to hold Preliminary hearings; states at this point will continue working on that & will include discussions with District Attorney's Office; states opinion regarding rule is that there is consensus regarding where cases are going, currently Grand Jury is indicating & Arraignment after indictment
- xxxvi. **Gerald Byers** states issue of Preliminary versus Grand Jury; states short version is DA's office does not have enough prosecutors to fulfill requirement; states law enforcement agencies are short staffed as well; states do not think it is possible right now & case law provides method of bringing case forward is at the discretion of District Attorney's indicates the discretion; states the matter will be brought forward at a later time for further discussion
- xxxvii. **Judge Cano** advises all of CJCC to real Local Rule

- **Adjourned at 1:01 pm**