

**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**

**OCTOBER 18, 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:

<i>AGENCY</i>	<i>MEMBER</i>
<i>Third Judicial District Court</i>	Chief Judge Perea, Brandi Sanchez, Jodie Delgado, Bernice Ramos, Carmen Florez-Lucero, Samantha Woodward, Judge Martin
<i>Doña Ana County Magistrate Court</i>	Judge Cano, Judge Duffin, Jackie Douglas
<i>Anthony Municipal Court</i>	Miriam Munoz
<i>Hatch Municipal Court</i>	
<i>Las Cruces Municipal Court</i>	Judge Filosa
<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, Yvette Lomeli
<i>Law Office of the Public Defender</i>	Lauren Mullins
<i>Doña Ana County Sheriff's Department</i>	
<i>Las Cruces Police Department</i>	
<i>New Mexico State Police Department</i>	

<i>New Mexico State University Police Department</i>	Andy Bowen
<i>Sunland Park Police Department</i>	
<i>Anthony Police Department</i>	Chief Vanessa Ordonez
<i>Mesilla Marshal's Department</i>	
<i>Hatch Police Department</i>	
<i>Doña Ana County Codes Enforcement</i>	
<i>Doña Ana County Detention Center</i>	
<i>Doña 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>Doña Ana County Compliance Division</i>	Chelo Guerrero
<i>Memorial Medical Center</i>	
<i>Community Service Corps</i>	
<i>Behavioral Health</i>	Joel Diemer
<i>La Casa, Inc.</i>	Melissa Mata
<i>Department of Finance & Administration</i>	
<i>Adult Probation & Parole Office</i>	
<i>Juvenile Probation Office</i>	Brandon Morales
<i>Doña 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>	Denali Wilson

1. Approval of September Minutes

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

2. Michael Stout, Doña Ana County Defense Bar

a. Discussion on Probable Cause Proceedings & Discovery

- i. Advises wants to discuss Preliminary Hearings for Discovery; States Dona County is only district in State of NM that relies solely on Grand Jury proceedings
- ii. Every district has Preliminary Hearings and uses them to their benefit; State not here to argue the legal arguments one way or the other; States wants to remind difference between Preliminary Hearings & Grand Jury proceedings due to Grand Jury being held exclusively in Dona Ana County
- iii. Advises Grand Jury proceedings are secret proceedings with Grand Jurors, District Attorney, and witness where the public, target/punitive defendant and attorney cannot attend unless the target chooses to testify before Grand Jury; Advises it is a rare event because target going in to testify would go in not knowing what else is being presented so most attorney advise clients not to appear before Grand Jury; States there is no notice of details of charges and there is no cross examination and no rules of evidence; States one advantage of Grand Jury prosecution will tell you is they are quick; States has seen situations over years where bets are made
- iv. Advises Preliminary Hearings are public; They have defendant and his/her counsel present and rules of evidence apply, there is cross examination, and there is testimony, and witnesses may be presented; Judge makes final decision not Grand Jury whether there is probable cause; States parties discuss case together and resolve case many times; States this is reason many district have Preliminary Hearings rather than Grand Jury proceedings
- v. States here to talk practicality and wants CJCC to have discussion about what makes sense for sake of community; States wants to have these proceedings for practical reasons; States every district recognizes front loading of cases is very important; States this is the value of Preliminary Hearings
- vi. States there is an order in Santa Fe from Supreme Court that limits Grand Jury paid hours a month; States should be an order here in Dona Ana County; States change can't happen overnight; States CJCC can have a discussion & possibly a committee to discuss efficacies are of these proceedings
- vii. States in yesterday's Albuquerque Journal the Alec Baldwin case was supposed to go to Preliminary Hearing, but instead prosecution pulled it & went to Grand Jury; States his opinion is because it will be a lot easier to get an indictment from a Grand Jury than take that case to Preliminary Hearing
- viii. States urging judges to limit Dona County's time for Grand Jury to encourage prosecution to conduct Preliminary Hearings; States Mr. Byers can say "I don't want to do that if I don't want to"; States there are things to do to encourage system to work better
- ix. States anytime there is a Grand Jury a presentation is given then find out a year later the case is very weak & it is dismissed; States all this time everyone involved with case have been under stress; States would like to open up the conversation & possibly have Judge Cano have a committee study the efficacy of the practicalities involved with probable cause proceedings
- x. **Judge Cano** asks if there any questions for Michael Stout

- xi. **Gerald Byers** states what he understands that Mr. Stout's proposal is to request this body to essentially to hold District Attorney hostage over his own idea as to how the rules to criminal procedure is interpreted by the NM Supreme Court in a Peavler case from 1975 dealing with authority & scope of discretion of District Attorney & he wants to bring that up to a committee to then bring pressure to bear on an elected official & how to carry out their duties; States I cannot believe I just heard that
- xii. **Michael Stout** states that wasn't a question; States taking people hostage in not really in my or CJCC's purview; CJCC is dedicated to try to improve this system; States can make suggestions about things we deem appropriate; States there would be no requirement on anybody's part; States the judges for example can limit amount of Grand Jury time as Supreme Court has done or can have a pilot project; CJCC doesn't have authority to do anything except talk about things and make recommendations; States let's have a conversation & make whatever recommendations we want; States maybe we end up totally on Gerald Byers side & say we don't want him to be "hostage"; States we should have the conversation because we're wasting time with everything going to Grand Jury in his opinion; States just wanted to have the conversation
- xiii. **Gerald Byers** states in Mr. Stout's preliminary conversation he stated he is aware of prosecutors making bets about how quickly they can get a true bill out of a hearing & he didn't think that was a laughing matter; States he agrees & his prosecutors don't function that way; States his words were meant in all sincerity & he doesn't appreciate Mr. Stout's laughing matter about the terminology
- xiv. States regarding the consideration of the responsibility of District Attorney to make a decision as to which charging source will be followed he will not advocate that; States will not entertain or engage in discussions that will en route the authority or capability of the District Attorney's office
- xv. States as far as a pilot project we're experiencing the throws of the pilot project called Case Management Rule; States it has been quite a bit of change to how things are done; Mr. Stout is making a representation that he thinks is a good suggestion & disagree; States has worked in districts where Preliminary Hearings held & able to move cases; States Grand Jury was held & able to move cases as well; States the whole process is not about moving cases & still stuck on having only one day per week for doing arraignments which creates problem with fifteen (15) day rule & still not past that hurdle; States can talk about change involving Preliminary Hearing jurisdiction or Court ordering restriction on number of available hours for prosecution to conduct Grand Jury & states who will give District Attorney the people to do all of this; States not in agreement & will not be in agreement
- xvi. **Judge Cano** asks if any rebuttal from Michael Stout
- xvii. **Michael Stout** states would like to hear from anybody else who might have a thought; States not surprised at Gerald's objections & understands positions; States feel community should know & have an evaluation on how things operate & how they might be improved; Reiterates no decisions being made but having a conversation about the topic with people on either end of the spectrum might be useful; States happy to be able to raise issue
- xviii. **Judge Cano** asks if there are any questions for Michael Stout; if not, Honorable James T. Martin may proceed to next item on agenda

3. Honorable James T. Martin, Third Judicial District Court

a. Service on Civil Matters

- i. Advises hopeful someone from DASO would be present; States did not hear them during roll call or someone from LCPD; Requests to see if any agencies joined to please speak up
- ii. **Brandi Sanchez** advises no one present from DASO or LCPD on call
- iii. Advises conversation directed mostly at them but also to CJCC because important matter; States most specifically directed at Writs of Restitution & Landlord-Tenant matters; Judge Cano aware majority of cases filed in Magistrate Court & when cases result in judgement in favor of landlord the Magistrate Court routinely issues Writ of Restitution restoring possession to landlord on specified date
- iv. States unfortunately DASO/LCPD have taken a view that Writ of Restitution is advisory; States for example they tend to grant three day extensions beyond date possession should be restored to landlord; States this is problematic because the Magistrate Court routinely sets damages including per diem rate up to date of Writ of Restitution & by granting extension they are in fact granting additional damages to landlord by not executing Writ of Restitution on date required by Court
- v. States second problem that has been recurring are Notices of Appeal; States when tenants file Notice of Appeal law enforcement has taken an unsupported position that that somehow acts as stay & wants to point out to any agency responsible for enforcing Writs of Restitution there is a process to stay; Can post monetary bond to Magistrate Court as ordered by Court or by establishing escrow account & notifying Court in writing that has been established
- vi. States filing Notice of Appeal does not in any way prevent eviction; States only thing that prevents it is by posting bond or establishing escrow account with written notice to Court
- vii. States wanted to alert law enforcement that if question about that if they receive Notice of Appeal it's a matter of calling the Magistrate Court Clerk & determining whether or not a bond has been posted or written notice of escrow been provided States if no such bond or written notice provided DASO obligation is to remove party; States has incident where DASO followed rules & evicted tenant then LCPD took it upon themselves to restore possession to tenant because of the Notice of Appeal; States don't understand what authority had to do that was going to invite them to alert judge in this forum what they thought that authority was
- viii. States finally Writs of Restitution issued by District Court similarly if Court orders restores possession to landlord or rightful owner absent Order of Staying that Writ law enforcement cannot prevent/prohibit enforcement; States they have come up with their own rules & was going to direct them to the County attorney to get legal advice if they were unable or unwilling to enforce the Courts' orders; States unfortunately they did not join CJCC today & that is truly disappointing
- ix. States wanted to bring this matter to CJCC's attention; States will have to take a different forum to get in touch with DASO/LCPD to express concerns
- x. **Judge Cano** states wants to thank for articulation because scribe taking notes & notes will be well reflected with what was stated & luckily law enforcement agencies to whom this most applies will be in receipt of these notes; States hopefully they will take the time to read what was articulated & contact with any questions

- xi. **Judge Cano** asks if there are any questions for Honorable James T. Martin; if not, Honorable Rebecca Duffin may proceed to next item on agenda

4. Honorable Rebecca C. Duffin, Doña Ana County Magistrate Court

a. After Hours Warrants Issues

- i. Advises was hoping to have a representative from DASO & LCPD for first agenda item; States so hopefully they do read this request
- ii. States after hour warrants have been in disarray with missing information, missing paperwork, purpose of after hours on call is; States biggest issue is that track system changed paperwork that officers receive to issue warrant
- iii. States need three things when issuing warrant: 1) Actual warrant referred to by law enforcement as cover sheet, 2) Statement of Facts with jurat on it which is subscribed & sworn to me on this date in Dona Ana County State of NM & 3) Criminal Complaint; States just need those three items not more or less; States at about 50%-60% over past two months where not even getting three basic items to issue warrants; States talking about calls from 11:00 pm to 3:00 am or 4:00 am & trying to work out paperwork is getting frustrating for Magistrate judges
- iv. States will suggest & know Mr. Byer's will echo this that if officers have issue they need to call DA on call to ask questions like what do I need to send or is this appropriate to send; States those are questions for the District Attorney's office not questions for judges to answer; States judges can tell don't have the paperwork needed or missing criminal complaint or missing coversheet for warrant
- v. States if referred to District Attorney's office & missing paperwork they will be able to advise; States hoping officers will utilize on call number for DA's if confused by paperwork; States it's becoming precarious issue that needs to be addresses

b. Five (5) Day Rule for Trials

- i. Advises was contacted by AOC that asked to remind during CJCC meeting that Supreme Court has a five (5) day rule prior to trial in which prior to if a case is to be plead, nolle or continued that needs to occur five (5) days prior to the jury trial setting; States in order to facilitate use of interpreters throughout the state & to utilize juries efficiently & fairly because these are our community members calling in; States if it's not going or last minute change especially individuals working shift work if they find out less than twenty-four (24) hour notice they are not going to be needed they are giving up money; States they are giving up their livelihoods to be there to help us out
- ii. Reiterates that is a rule AOC will be following closely; States we as a Court will be following closely; Asks all parties to be mindful of; States if have questions about order it is Supreme Court Order 23-8500-012
- iii. **Judge Cano** asks if there are any questions for Honorable Rebecca Duffin concerning either After Hours Warrants process or the Supreme Court Rule
- iv. **Robert Milks** states wants to add to after hour warrant issues; States has been in meetings with Nohemi & Magdeli; States also if can make sure to put correct information on warrant; States when warrants sent to MVRDA if find any errors or if it does not meet minimum requirements it will be not entered; States trying to come up with better solution to make sure information on warrants is correct

- v. **Judge Cano** asks if there are any questions for Robert Milks regarding any potential processes or procedures regarding warrants at MVRDA; Judge Cano asks if there are any questions for Honorable Rebecca Duffin regarding either one of her agenda items
- vi. **Jackie Douglas** states another thing seeing is identifiers on warrants are needed; States missing law enforcement on the line & may need to meet with law enforcement to get this out to everyone; States identifiers important matter for having warrants entered into NCIC; States seen a very large number & providing us the warrants that have been rejected
- vii. **Michael Stout** states interested Judge Duffin in five day rule; States know receiving orders to implement & enforce that as a Supreme Court requirement; Asks if it is really practical thing to do with lawyers from Public Defender's office & District Attorney's office needing to communicate to decide whether they can have they can actually have their cases prepared five days before trial; States just wondering what kind of difficulties it is causing it seems like in talking to some lawyers especially Public Defenders it seems like it just creates a situation where it is frustrating judges as well because they end up on the day of trial without a case or whatever
- viii. **Judge Duffin** states 90% of the cases are handled & dealt well before we get to the trial stage- weeks usually almost thirty (30) days before we're even out of trial; States some of the issues we're seeing & some of it are just going to be emergencies we're going to have to handle where a witness disappears or a client disappears those are not the cases we're referring to; States was a trial attorney for a very long time understand those things happen & our judges understand that those things happen; States these are the ones where we just want to make sure pleas have been offered if there is going to be a plea that's been communicated to the client & we have a decision on that prior to trial; States setting for Docket Call sixty (60) days prior to rule date & also setting Status Hearing before that five (5) day mark just to give everyone the opportunity between docket call & that status hearing to say hey judge here's where we're at here's what we're trying to do
- ix. States thinks what really kind of tweaked AOC is had four (4) criminal trials going at the District Court at once, we had a shortage of interpreters and one traveled to Albuquerque so obviously they were paying for the travel for that & then the trial was cancelled the day off; States outside that wasn't a DA issue that was a Defense issue on that one, but that's what really kind of irked AOC is hey we just expended all this money interpreters are hard to come by in the state what are we doing why aren't we following this rule; States just wants everyone to try to be extra mindful of it for the most part we are, but there are those cases that fall threw so just making sure pleas offered that those are communicated & that we're getting that done before the five (5) days; States I think it should be pretty manageable
- x. **Michael Stout** states it definitely goes without saying there is very good reason to get these things resolved sooner than later; States just wondering about those situations where are people going to be punished for having a resolution four (4) days before trial; States more of a curiosity
- xi. **Judge Cano** thanks Jackie Douglas, Judge Duffin & Robert Milks for presentations; States going into agenda item number five from Denali Wilson

5. Denali Wilson, ACLU of New Mexico

a. Set CRAG Funding Priorities for 3rd Judicial District CJCC

- i. Introduces self by advising a staff attorney at ACLU of New Mexico; States role with CJCC a little different; States is founder & president of (De)serving Life & presented before body in April then were admitted as members to CJCC in the Third; States have enjoyed being a part of this organization & (De)serving Life organization formed in response to new law in New Mexico in March of 2023; NM Legislature passed law that did two really important things, 1) Ended life without parole as a sentencing option for children in the states which is something twenty-seven (27) states have done & now NM is a part of them 2) Created earlier parole opportunities for people serving life adult sentences for crimes committed as children
- ii. States with new law there was a gap in services; States Public Defender's office it created a statutory right to counsel in those hearings, but Public Defender's office is unable to take those cases because of their own resource constraints; States ACLU worked to partnership with other advocates to found (De)serving Life in order to fill that advocacy; States it's not just direct services & preparation for parole
- iii. States of interest to this body is work doing to make sure people who went to present in NM as children & are preparing for opportunity to return home twenty-thirty (20-30) years later as adults they are setup for reentry & supports that that population needs & deserves; States it is a significant time that people have done & often times involved a lot of isolation & sometimes solitary confinement, which means people, have real intensive reentry that we know; States supporting people as they return home from prison is violence prevention & helps ensures public safety
- iv. States as entity applied for funding through the Crime Reduction Act; States this body had interesting goal in the delegation of legislative funds; States first round of that funding the sentencing commission remember from the summer meeting held there was a representative from the sentencing commission, Jaime Goldberg, who reported out to the body about that first round think they were just flooded with applicants; States (De)Serving Life and others were not prioritized that first round & were invited to resubmit to this next grant fund round which is open now and ends October 31, 2023
- v. States reached out to be on the agenda because another thing the body heard from sentencing commission during that summer meeting was a request for CJCC bodies to report back out to the sentencing commission if they have funding priorities; States so if in the Third this body were to decide we'd really like so and so project to be prioritized for funding by CRAG (Crime Reduction Act Grant) that is something the committee can take into account when making funding decisions
- vi. States in light of what Jaime Goldberg from the sentencing commission requested from this body was to create and indicate to the sentencing commission priorities for funding for this round; States think need to communicate those priorities by October 31, 2023 when the deadline for this round of funding comes

b. Consider Designating (De)serving Life CRAG Proposal a Funding Priority

- i. Advises request (De)Serving Life would be considered as a priority & notes on agenda the last item seems to be another applicant interested in Crime Reduction

Act funding; States if those are the only pending requests from the Third may be possible to communicate & request priority for both of the two applications; States there may be somewhere in there an invitation for a motion of some sort for a voting member

- ii. **Judge Cano** asks if anyone has a question for Denali Wilson
- iii. **Michael Stout** asks basically if CJCC moves to resubmit what already approved for would that do it or does CJCC need to say more in terms of being a priority since don't have many other applicants
- iv. **Denali Wilson** states no renewal needed from endorsement of CJCC & would be able to resubmit to the sentencing commission prior endorsement & that is still valid; States heard when Jaime Goldberg reported out to the sentencing commission to this body this summer about the delegation of funds there was a request in there that the Third & other judicial district let their commission know if they have priorities for funding; States so it is the intent of this body to fulfill that request & let the commission know if there are priorities then only request is that (De)Serving Life & previously endorsed application be among those priorities for the Third
- v. **Michael Stout** states would so move that CJCC add language necessary because as Ms. Wilson points out CJCC already approved application & sent out to sentencing commission but it was not accepted because of a lot of many applicants; States can simply restate CJCC's endorsement of this application & since it is only one have at moment think clearly can prioritize need. States so would move that CJCC accept Ms. Wilson's request
- vi. **Judge Cano** asks if it is a motion and if so, if Michael Stout would be first
- vii. **Michael Stout** states yes that was a motion
- viii. **Judge Cano** asks if have a second as to request of Ms. Wilson
- ix. **Lauren Mullins** seconds
- x. **Judge Cano** asks if any questions of Ms. Wilson prior to putting for vote; States has motion & second; States if opposing motion then state opposition; States if opposition not stated then silence is acclamation & will show CJCC voted unanimously for the subject matter; States up for vote asks if anyone opposes motion; States hearing no opposition, it is voted unanimously by CJCC
- xi. **Judge Cano** asks if any questions of Ms. Wilson; if not Chelo Guerrero proceed to final item on agenda

6. Chelo Guerrero, Doña Ana County Compliance Division

a. Expansion of the Crime Reduction Grant & Intent to Apply

- i. Advises applied to counsel & for round one of funds through Crime Reduction Grant to further develop & expand behavioral health & criminal justice effort; States has been a lot of work with SIMS workshop & mapping of the intercepts, but further funding is needed to complete project; States it is intended to include designing an updated dashboard; States wanted to give an update & round one went very well even though it took on more than expected. States have final report that want to provide to CJCC & there is opportunity to request more funds & intend to submit request
- ii. States deadline is Friday, October 20, 2023; States wanted to advise intent to apply for funding & use previous endorsement from CJCC to apply; States round one received one hundred thirty-one thousand dollars (\$131,000) & round have not come up with a budget for that but it will be more than that amount & less

- than three hundred thousand dollar (\$300,000); States can come back with final application for review if there are any questions; States final report for round one was completed recently so it was not ready for today's meeting
- iii. **Judge Cano** has questions; First asks if not asking for new funding but supplement funding; Second asks if reverting any money from last award; Lastly asks if application deadline is October 31, 2023
 - iv. **Chelo Guerrero** states it is round two because expanding funds; States are requesting more money & wanted to advise using same previous endorsement for this round; States no money reverted that aware. Chelo Guerrero states no & not sure if different for those are applying for round two that got round one because deadline is this Friday, October 20, 2023
 - v. **Judge Cano** wants to reiterate & confirm Chelo's request; States Chelo asking for CJCC's permission to reuse its full support in application process for worthy cause; States need to give approval today because will not meet again before deadline
 - vi. **Chelo Guerrero** confirms yes
 - vii. **Judge Cano** asks if any questions for Chelo Guerrero regarding her request to use CJCC's endorsement as an underlying factor in her grant application
 - viii. **Michael Stout** states confused; Asks if asking for CJCC say approve of work, application or money figure attached to it
 - ix. **Chelo Guerrero** states not necessarily just that CJCC is okay with continuing to endorse for this project
 - x. **Michael Stout** states would be happy to move that; States so moved
 - xi. **Judge Cano** asks if have a second as to request of Ms. Guerrero
 - xii. **Joel Diemer** seconds
 - xiii. **Judge Cano** asks if anyone stands in opposition in stated requested please state opposition now; States hearing no opposition, it is unanimously approved by CJCC

Judge Cano states five minutes left & asks if anyone has any announcements; Advises next meeting is November 15, 2023; States if would like to be placed on agenda to send request to Brandi Sanchez.

Gerald Byers moves for adjournment

Chief Vanessa Ordonez seconds

- **Adjourned at 1:00 pm**