

**MINUTES  
of the  
THIRD MEETING  
of the  
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**September 3-4, 2019  
University of New Mexico Science & Technology Park Rotunda  
801 University Boulevard SE  
Park North, First Floor-East  
Albuquerque**

**September 5, 2019  
Northwest New Mexico Correctional Center  
1700 East Old Highway 66  
Grants**

The third meeting of the Courts, Corrections and Justice Committee was called to order by Senator Antoinette Sedillo Lopez on September 3, 2019 at 9:50 a.m. at the University of New Mexico Science & Technology Park Rotunda in Albuquerque.

**Present**

Rep. Gail Chasey, Co-Chair  
Rep. Eliseo Lee Alcon  
Rep. Deborah A. Armstrong  
Sen. Gregory A. Baca (9/3, 9/4)  
Rep. Karen C. Bash  
Sen. Jacob R. Candelaria (9/3, 9/4)  
Rep. Dayan Hochman-Vigil (9/3)  
Sen. Linda M. Lopez  
Rep. Antonio Maestas (9/3)  
Rep. William "Bill" R. Rehm (9/3, 9/4)  
Sen. Antoinette Sedillo Lopez (9/3, 9/4)

**Advisory Members**

Sen. Daniel A. Ivey-Soto (9/4)  
Sen. Bill B. O'Neill (9/3, 9/4)  
Rep. William B. Pratt (9/3, 9/4)  
Sen. Mimi Stewart (9/3, 9/4)

**Absent**

Sen. Richard C. Martinez, Co-Chair  
Rep. Zachary J. Cook  
Sen. Sander Rue

Rep. Alonzo Baldonado  
Sen. William F. Burt  
Rep. Brian Egolf  
Rep. Doreen Y. Gallegos  
Rep. Georgene Louis  
Sen. William H. Payne  
Rep. Andrea Romero  
Rep. Patricia Roybal Caballero  
Rep. Christine Trujillo  
Sen. Peter Wirth

**Guest Legislator**

Sen. Clemente "Memé" Sanchez (9/5)

(Attendance dates are noted for members who did not attend the entire meeting.)

**Staff**

Mark Peralta-Silva, Staff Attorney, Legislative Council Service (LCS)

Elisabeth Johnson, Staff Attorney, LCS

Erin Bond, Research Assistant, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Tuesday, September 3 — Albuquerque****Welcome and Introductions**

Senator Sedillo Lopez welcomed the committee and audience and introduced LCS staff members.

**Update from the Administrative Office of the Courts (AOC)**

Judith K. Nakamura, chief justice, New Mexico Supreme Court, and Arthur W. Pepin, director, AOC, presented updates on the AOC.

Justice Nakamura said that the judicial compensation report should be released in the near future and that there was a four percent pay increase for court staff this year, which resulted in fewer job vacancies.

Justice Nakamura spoke about the Campaign for Judicial Excellence and its three goals: to simplify and streamline the organizational structure of the judicial branch, to increase access to courts and legal services throughout the state and to improve communications between the judiciary and the public.

Justice Nakamura stated that in almost one-half of all civil cases in the state, one party is self-represented. She said that there is a shortage of attorneys in the state and that there are two counties, Harding and De Baca, with no attorneys.

Justice Nakamura indicated that in the upcoming session, the courts intend to ask for \$1.8 million to fund five new judgeships and additional staff. She said that because state law enforcement officers are not obligated to provide security services, most magistrate courts do not have security, so the courts intend to ask for \$2.7 million to fund security needs in the magistrate

courts. The courts also intend to ask for \$3.2 million to fund new projects in the AOC, including an online dispute resolution program, pretrial services, court-appointed abuse and neglect services and behavioral health specialists, and to address ongoing changes with the guardianship program. Finally, the courts intend to ask for \$600,000 for additional full-time employees for the AOC, she said.

Mr. Pepin gave an overview of the court system and structure in New Mexico. He stated that metropolitan courts are courts of limited jurisdiction and that judges must be attorneys. The approved budget for the courts is slightly more than \$15 million above the current budget, he added. Mr. Pepin also described the ongoing need for court security.

On questioning, presenters and members of the committee addressed the following topics.

***Conviction Rates in the Second Judicial District.*** A member asked for data on the percentage of criminal cases in the Second Judicial District that result in convictions. Mr. Pepin responded that he can look into this question.

***Domestic Violence and Gun Safety.*** A member asked how the implementation of the domestic violence and gun safety bill is going. Mr. Pepin responded that 85 orders to relinquish firearms have been issued, and of those 85 orders, 16 receipts of relinquishment have been received from county sheriffs.

***Court of Appeals Backlog.*** A member asked about the case backlog in the Court of Appeals. Mr. Pepin responded that the backlog should be significantly reduced by January 2020.

***Children of Convicted Individuals.*** A member asked whether there are any programs for children of convicted individuals. Mr. Pepin responded that those issues are typically handled by the district attorney's office.

***Compensation for Probate Judges.*** A member asked how probate judges are compensated for their work. Mr. Pepin responded that salaries for probate judges are determined by county.

### **2019 New Mexico Prison Population Forecast**

Linda Freeman, executive director, New Mexico Sentencing Commission (NMSC), and Douglas Carver, deputy director, NMSC, presented the *New Mexico Prison Population Forecast: FY 2019-FY 2028*.

Ms. Freeman indicated that the NMSC is projecting a decrease for the male and female prison populations. She stated that the forecast accounts for people who are in movement, which includes individuals who are out for medical care, court appearances or other reasons.

Ms. Freeman stated that there is not a conclusive explanation for the decrease in the prison population but conjectured that maybe New Mexico is catching up with the federal trend. She explained that 10 percent of the prison population is female but, nationally, only about seven and one-half percent of the prison population is female.

On questioning, Ms. Freeman, Mr. Carver and members of the committee addressed the following topics.

***Economic Factors.*** A member asked for an explanation of the economic factors that are considered in the forecast. Mr. Carver explained that the NMSC is working with a researcher at the University of New Mexico (UNM) who provides analysis of some economic factors. He stated that as the economy improves, the state sees a decline in the prison population. A member followed up by asking whether the NMSC has found that individuals with adverse childhood experiences are more likely to be incarcerated. Mr. Carver stated that in two independent studies, the NMSC has found that individuals who are in correctional systems have faced more adverse childhood experiences than those who are not incarcerated.

***Racial and Ethnic Data.*** A member asked why there is a lack of racial and ethnic data. Ms. Freeman responded that New Mexico does not have any rules on data collection. The NMSC does not know if the racial and ethnic data provided is self-reported or if the data is copied from another data-collection source. Mr. Carver indicated that the NMSC needs a way to ensure that data is self-reported.

***Intake Information.*** A member asked whether the Corrections Department collects the intake information. Mr. Carver responded that it does. He said that the NMSC cannot verify the accuracy of this data because the data from the department is combined with other administrative data. This makes the data unreliable because there are multiple sources of data with different methods of collection.

***Women Participating in Educational Programs.*** A member asked whether there is data on women who participated in educational programs and whether that made them less likely to recidivate. Ms. Freeman responded that it is labor intensive to collect data on that issue.

### **Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)**

Ms. Freeman presented on COMPAS, a case management and decision support tool. Ellen Rabin, fiscal analyst, Legislative Finance Committee (LFC), and Theresa Edwards, senior fiscal analyst, LFC, assisted with the presentation.

Ms. Freeman indicated that recidivism rates have hit higher percentages. She stated that violence in prisons has risen, which may be an indicator of the ineffectiveness of prison programs.

Ms. Freeman stated that the Corrections Department administers the COMPAS tool within four weeks of intake. However, only about four percent of inmates have a full COMPAS assessment because the department frequently does the risk portion of the assessment but not the needs portion.

On questioning, presenters and members of the committee addressed the following topics.

***COMPAS Administration.*** A member asked why the numbers are so low for full reporting of the COMPAS data. The presenters responded that there is no evidence to answer this question.

***COMPAS Training.*** A member asked if there needs to be more training and support for use of the COMPAS tool. The presenters responded that the Adult Probation and Parole Division of the Corrections Department, which reported higher usage rates, has a training mechanism in place.

#### **Update from the UNM School of Law (SOL)**

Sergio Pareja, dean, UNM SOL, presented an update on the UNM SOL. He stated that the UNM SOL has been understaffed and that it hired six new faculty members last year. He explained that the number of students is down but that he does not want to lower the standards for acceptance into the UNM SOL to increase enrollment.

Mr. Pareja explained that the state is currently experiencing the lowest number of New Mexicans applying to all law schools, which may be due to the increase in employment rates. He stated that the UNM SOL cannot match the scholarships provided by other law schools.

A member asked if there is anyone currently teaching health law at UNM SOL. Mr. Pareja affirmed that there is currently a health law professor.

#### **Wednesday, September 4 — Albuquerque**

##### **Review of Elections Legislation**

Mandy Vigil, elections director, Office of the Secretary of State (SOS); Sharon Pino, deputy secretary of state and chief of staff, SOS; and Senator Ivey-Soto presented a review of elections legislation.

Ms. Vigil discussed the benefits for voters after the passage of House Bill 407 (2019). She described the consolidated local election, which may assist voters in understanding when the election is occurring.

Senator Ivey-Soto said that the state is now offering prepaid postage for voting by mail and described the use of new ballot drop boxes. Ms. Vigil indicated that there are significant costs associated with the drop boxes and that it will cost \$1 million to \$2 million per county. She

stated that there will be a consistent ballot format across the state and that individuals can now file declarations of candidacy with the individual's county clerk.

On questioning, presenters and members of the committee addressed the following topics.

***Declaration of Candidacy.*** A member asked what happens if an individual declares candidacy at the SOS instead of with the local county clerk's office. The presenters responded that a person would be out of luck in that case because the law has changed.

***Party Declaration.*** A member asked what happens if an individual does not use the proper abbreviation for party declaration. Ms. Vigil responded that "DEM" and "REP" are the acceptable abbreviations. If an individual uses a different abbreviation, the SOS will reach out to follow up.

***Decline to Select.*** A member expressed concern that when an individual chooses "decline to select" for party declaration, that person may be deregistered and unable to vote in the primary election.

***Formal Guidance.*** Members expressed confusion in determining when certain new election laws apply and stated that it is not clear from the text of the bill. Members asked the SOS to issue formal guidance on these issues.

***Bureau of Elections Electronic System.*** A member asked whether the Bureau of Elections is still undergoing development of an electronic system. Ms. Vigil affirmed and stated that the office expects this system to be in place by February 2020.

***Drop Boxes.*** A member asked how it will be known that the person dropping off a ballot is the voter or an immediate family member. The presenters indicated that the bill defined immediate family member and that there is now a place on the ballot to identify the person dropping off the ballot.

### **Felon Disenfranchisement**

Representative Chasey, Senator Ivey-Soto and Justin Allen, prisoner outreach coordinator, Millions for Prisoners, spoke about felon disenfranchisement. Ms. Vigil and Ms. Pino also contributed.

Representative Chasey stated that upon completion of probation and parole, a person should be able to vote but that reinstating voting rights is procedurally complicated. She emphasized the need for a simpler method.

Mr. Allen said that he supports reinstatement of voting rights because it is important to engage people so that they feel invested in the community.

A member said that reinstating voting rights may result in candidates having to campaign in prisons but that the problems in issuing certificates to reinstate voting rights should be examined.

### **Public Comment**

The committee heard public comment from the following.

Diane McCash stated her support for the committee's work.

Barron Jones of the American Civil Liberties Union (ACLU) expressed the ACLU's support for ending felon disenfranchisement. He said that formerly incarcerated individuals have the desire to participate in the democratic process.

Katy Duhigg, city clerk, City of Albuquerque, stated that Albuquerque has opted in for local elections. She expressed concern that if a city has certain qualifications for its candidates, those qualifications are not verified by the county clerk. She asked for support in fixing this problem.

### **Update from the New Mexico District Attorney Association (NMDAA) and the Administrative Office of the District Attorneys (AODA)**

Dianna Luce, president, NMDAA, and district attorney, Fifth Judicial District, and Henry Valdez, director, AODA, gave an update to the committee.

Ms. Luce stated that there is a huge need for attorneys across the state, especially in prosecution, and she stated her interest in creating a fellowship program. She said that even if rural areas can hire attorneys, there is a high probability that an attorney will not stay in the position for very long.

On questioning, presenters and members of the committee addressed the following topics.

***Racial Data.*** A member asked whether the AODA is able to collect racial data. Mr. Valdez affirmed that the AODA collects that data from already existing sources.

***Short-Term Staffing Options.*** A member asked about short-term solutions to address staffing issues. Ms. Luce stated that district attorneys' offices are submitting advertisements on various platforms to fill the vacancies but that there appears to be a true lack of interest. A member stated that the committee could look at rural-county-specific scholarships.

***State Agencies.*** A member asked why new attorneys are more attracted to state agency work instead of prosecution. Ms. Luce responded that there are smaller caseloads and higher salaries in state agency positions. She said that district attorneys' offices are doing everything they can to reduce their caseloads but are still swamped.

**Case Management.** A member asked whether a person in the criminal justice system has a unique identifier, other than a social security number, that the system uses to identify the person. Mr. Valdez stated that New Mexico is one of two states with a statewide case management system and that the AODA is working with the judiciary to help eliminate duplicate records.

**Post-Conviction Processes.** A member asked about post-conviction processes. Mr. Valdez responded that the AODA is concerned with a balance of justice.

### **Economy of Private Detention Centers**

James Povijua, policy director, Centers for Civic Policy (CCP), and Isaac De Luna Navarro, communications director, CCP, spoke to the committee about private prisons in New Mexico, including a brief history. They explained that privately operated facilities in the state include the Guadalupe County Correctional Facility, Lea County Correctional Facility, Northeast New Mexico Detention Facility, Northwest New Mexico Correctional Center and Otero County Prison Facility.

Mr. Povijua and Mr. Navarro presented statistics on the composition of private prisons in the state and addressed the problem of racial and ethnic disparities. They also spoke about immigrant populations in private prisons and provided a list of recommendations to address issues related to private prisons in the state.

A member asked who owns the private facilities doing business under the names Geo and CoreCivic. The presenters responded that those companies are shareholder-owned.

### **Thursday, September 5 — Grants**

#### **Tour: Northwest New Mexico Correctional Center**

Committee members, staff and members of the public toured the Northwest New Mexico Correctional Center in Grants.

#### **Adjournment**

There being no further business, the committee adjourned at 11:55 a.m.