

**MINUTES
of the
FOURTH MEETING
of the
CRIMINAL JUSTICE REFORM SUBCOMMITTEE
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**October 22, 2019
Ladera Golf Course Banquet Hall
3401 Ladera Drive NW
Albuquerque**

The fourth meeting of the Criminal Justice Reform Subcommittee of the Courts, Corrections and Justice Committee was called to order by Senator Sander Rue, co-chair, on October 22, 2019 at 9:20 a.m. at the Ladera Golf Course Banquet Hall in Albuquerque.

Present

Rep. Antonio Maestas, Co-Chair
Sen. Sander Rue, Co-Chair
Sen. Gregory A. Baca
Rep. Gail Chasey
Rep. Antoinette Sedillo Lopez

Absent

Rep. Alonzo Baldonado
Rep. Zachary J. Cook
Sen. Richard C. Martinez

Advisory Members

Sen. Bill B. O'Neill
Rep. William "Bill" R. Rehm

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, October 22

Welcome and Introductions

Senator Rue welcomed the subcommittee and the audience and introduced LCS staff members.

Juvenile Sentencing Reform

Maryam Ahranjani, associate professor and Don L. and Mabel F. Dickason Professor, University of New Mexico School of Law, gave a presentation on juvenile sentencing reform. Ms. Ahranjani provided subcommittee members with a copy of her textbook, *Youth Justice in America*. She explained that the textbook examines the Second, Fourth, Fifth, Sixth, Seventh and Eighth amendments to the United States Constitution.

Ms. Ahranjani described the three eras of juvenile sentencing, which include the rehabilitation and protection era, the expansion of legal rights era and the get tough reform movement.

Ms. Ahranjani also spoke about waivers for juveniles. Although juvenile courts have jurisdiction over juveniles, jurisdiction may be waived through statutory or judicial waivers. She explained that New Mexico has a statutory waiver and provides more protections for juveniles than they receive under federal law. She indicated that juvenile courts seal records and focus on rehabilitation.

On questioning, Ms. Ahranjani and members of the subcommittee addressed the following topics.

Solutions. A member asked how the state can address lengthy juvenile sentences. Ms. Ahranjani responded that she was not in a place to recommend solutions but that some lengthy sentences raise issues under the Eighth Amendment to the United States Constitution, which prohibits cruel and unusual punishment.

Research. A member asked whether there is any research that describes how the state is doing in regard to juvenile sentencing. Ms. Ahranjani stated that she believes there may be concerns with availability of resources, but she does not know the specifics of that issue.

Probation 101

Alisha Tafoya Lucero, secretary-designate, Corrections Department (CD), and Melanie Martinez, director, Adult Probation and Parole Division (APPD), CD, presented an overview of probation.

Ms. Martinez stated that the APPD supervises approximately 16,000 individuals in the state and has 380 employees. She explained the various differences between probation and parole.

Ms. Martinez explained that the APPD uses Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) to identify the risks and needs of individuals. She also explained how graduated sanctions work within the state.

On questioning, Secretary Tafoya Lucero, Ms. Martinez and members of the subcommittee addressed the following topics.

COMPAS Administration. A member asked why there is a low administration rate for COMPAS. Secretary Tafoya Lucero responded that the APPD only acquired licenses to use the program in 2016.

Job Requirements for Officers. A member asked what the job requirements are for probation and parole officers. Secretary Tafoya Lucero responded that applicants must have an associate degree and complete a psychological examination, polygraph test and physical examination.

Goals of COMPAS. A member asked what the goals of COMPAS are. Ms. Martinez responded that COMPAS is a mechanism to help determine supervision levels by evaluating the risks and needs of individuals.

Metal Theft Legislation

Joseph Menicucci, commercial insurance agent, Downey & Company; Tim MacEachen, member, Board of Directors, New Mexico Association of Realtors; Minda McGonagle, lobbyist, Responsible Metal Recyclers Initiative; and Representative Maestas presented on metal theft legislation.

Ms. McGonagle reviewed and explained House Bill 597 (2019), which addressed metal theft but did not pass. She stated that the problem with the current law is that penalties are based on the amount of metal stolen, but significant property damage occurs during the commission of the crime. She explained that the crime of criminal damage to property requires intent. While individuals who commit metal theft generally intend to steal the metal, they are not always subject to conviction for the criminal damage to property because they do not necessarily intend to damage the property, she said.

Mr. MacEachen explained that this issue matters to real estate brokers because metal theft results in thousands of dollars in property damage and makes it difficult for property owners to get and stay insured. Mr. Menicucci added that metal theft is a difficult issue to deal with for insurance carriers.

On questioning, Mr. Menicucci, Mr. MacEachen, Ms. McGonagle, Representative Maestas and members of the subcommittee addressed the following topics.

Expanded Consequences. A member shared an instance where a medical provider was the victim of metal theft, resulting in medical appointments being canceled for a period of time, and the member used that example to show the wider consequences of metal theft.

Incorporation into the Larceny Statute. A member asked why the legislation did not include the metal theft issue in the larceny statute.

New Mexico SAFE Budget Recommendations

Paul Haidle, senior policy strategist, American Civil Liberties Union of New Mexico; Kim Chavez Cook, associate appellate defender, Public Defender Department (PDD); Bennett J. Baur, chief public defender, PDD; and Emily Kaltenbach, state director, Drug Policy Alliance, presented legislative funding recommendations on behalf of New Mexico SAFE.

The first request is for funding for transitional living centers. Members of the panel explained that additional transitional living beds in the community may reduce costs and increase a former inmate's successful reintegration into society.

The second request is for funding for the PDD. Ms. Chavez Cook presented a brief description of the PDD budget request for fiscal year 2021. She stated that the PDD has recruitment and retention difficulties in underserved communities.

The third request is for funding for substance abuse treatment and diversion programs. Ms. Kaltenbach stated that New Mexico SAFE recommends funding for evidence-based treatment and diversion programs, including law enforcement assisted diversion and an injectable opioid treatment pilot program at the University of New Mexico.

The fourth request is for funding for an independent, systemwide audit of the CD. Mr. Haidle explained that the audit would examine the provision of health care by Centurion Managed Care in CD facilities and compliance with the United States Prison Rape Elimination Act of 2003, known as "PREA", in CD facilities.

The fifth request is for funding to implement provisions of the Criminal Record Expungement Act, which was enacted in 2019. Mr. Haidle explained that the additional funding would primarily be used for additional staff to process background checks.

The sixth request is for funding for legal services for expungement assistance. Mr. Bauer explained that there is a gap in the provision of legal services for people who are seeking expungement but are unable to afford an attorney to assist with expungement filings.

On questioning, Mr. Haidle, Ms. Chavez Cook, Mr. Baur, Ms. Kaltenbach and members of the subcommittee addressed the following topics.

Priority. A member asked whether the six recommendations for funding are in order of priority. Members of the panel explained that the recommendations are in no particular order.

Financing. A member stated that the Legislative Finance Committee is asking for requests to be broken down into small increments and explained with specificity.

Adjournment

There being no further business, the subcommittee adjourned at 2:15 p.m.