

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

**October 18-19, 2018  
University of New Mexico Science & Technology Park Rotunda  
851 University Boulevard SE  
Albuquerque**

The sixth meeting of the Courts, Corrections and Justice Committee (CCJ) was called to order by Senator Richard C. Martinez, co-chair, on October 18, 2018 at 9:15 a.m. at the University of New Mexico (UNM) Science & Technology Park Rotunda in Albuquerque.

**Present**

Rep. Gail Chasey, Co-Chair  
Sen. Richard C. Martinez, Co-Chair  
Rep. Eliseo Lee Alcon  
Sen. Gregory A. Baca (10/18)  
Sen. Jacob R. Candelaria (10/18)  
Rep. Jim Dines  
Sen. Linda M. Lopez  
Rep. Antonio Maestas  
Rep. Sarah Maestas Barnes  
Rep. Javier Martínez (10/18)  
Sen. Cisco McSorley  
Rep. William "Bill" R. Rehm

**Absent**

Rep. Zachary J. Cook  
Rep. Angelica Rubio  
Sen. Sander Rue

**Advisory Members**

Sen. Daniel A. Ivey-Soto (10/18)  
Rep. Patricia Roybal Caballero  
Sen. Mimi Stewart  
Rep. Christine Trujillo (10/18)

Rep. Deborah A. Armstrong  
Sen. William F. Burt  
Rep. Brian Egolf  
Rep. Doreen Y. Gallegos  
Sen. Bill B. O'Neill  
Sen. William H. Payne  
Sen. John Pinto  
Sen. Peter Wirth

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Celia Ludi, Staff Attorney, Legislative Council Service (LCS)  
Randall Cherry, Staff Attorney, LCS  
Mark Peralta-Silva, Staff Attorney, LCS  
Erin Bond, Research Assistant, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Copies of all handouts are in the meeting file.

**Thursday, October 18****Welcome and Introductions**

Senator Martinez welcomed the committee, and members introduced themselves. Garnett S. Stokes, president, UNM, introduced herself to the committee as the new president of UNM. She stated that in the first year of her presidency, she has focused on understanding the UNM campus, the Albuquerque community and the state as a whole. Dr. Stokes recently completed a statewide listening tour, in which she visited all 33 counties and 38 cities across the state.

As a result of the tour, Dr. Stokes has developed new goals for the university. UNM will strive to respond to communities' unique needs by expanding health care education, engaging with tribal communities and supporting vulnerable student populations. The needs and concerns, such as institutional transparency and campus safety, of UNM alumni, who comprise approximately eight percent of New Mexico's total population, will be addressed. Dr. Stokes noted that UNM has requested \$11 million in capital outlay funds for safety and infrastructure.

In response to questions from the committee, Dr. Stokes explained that due to a significant decline in enrollment, UNM faces major revenue loss. While UNM has low tuition rates compared to national standards, many of UNM's potential students come from low-income backgrounds. Offering need-based scholarships could boost enrollment rates, she said. Other reasons for low enrollment include competition from out-of-state universities, a poor public image due to campus safety issues and plentiful current job opportunities for individuals without college degrees. Members of the committee expressed concern that UNM does not seem to have a clear plan to make up the revenue loss or to provide programs that might increase enrollment. Committee members also expressed concern about the recent turnover in the president's office and said that they hope Dr. Stokes will remain in the office long term.

**New Mexico Elections and Voting Update**

Maggie Toulouse Oliver, secretary of state, addressed the committee on election administration and campaign finance priorities for the next legislative session.

Secretary Toulouse Oliver listed the following election administration priorities:

- funding the Office of the Secretary of State and election-related expenses — the Office of the Secretary of State will need full funding for fiscal year 2020 and supplemental funding for fiscal year 2019 to pay for expenses associated with the 2018 general election. The Public Election Fund must be replenished, and funding gaps for the Local Election Act (LEA) must be filled. Elections will be held every

- fiscal year, and Secretary Toulouse Oliver requested that a regular, sustainable funding source be found for elections;
- updating the Election Code, including fixes to the LEA; as the LEA is implemented for the first time in 2019, problems will arise. Stakeholders have already identified issues that will need to be addressed before implementation;
  - codifying and expanding automatic voter registration; while the Motor Vehicle Division (MVD) of the Taxation and Revenue Department provides all customers who are identified as U.S. citizens an opportunity to register or update their registrations at the beginning of a transaction, the program is only administratively created by the secretary of state. Secretary Toulouse Oliver would like to codify the program and expand it to other state agencies;
  - allowing same-day voter registration; New Mexico has one of the earliest voter registration deadlines in the country. Secretary Toulouse Oliver stated that this disenfranchises voters who move at the "wrong" time. New technology allows for safe and secure instant registration, which in turn allows for same-day registration and voting. Same-day registration will also assist in keeping voter registration databases up to date;
  - shifting to open primaries; New Mexico is one of the few remaining states with closed primaries. Secretary Toulouse Oliver stated that primaries are paid for by all taxpayers, regardless of their eligibility to vote in them. Closed primaries in which only a single party has candidates running can disenfranchise non-major party or unaffiliated voters. A variety of approaches is available for open primaries, and Secretary Toulouse Oliver would like to start the discussion;
  - creating electronic signature verification; ballot access laws in New Mexico require that a candidate obtain signatures from voters of their party and in their area of representation. Secretary Toulouse Oliver explained that implementing electronic signature verification, which allows candidates to collect and validate signatures electronically, could immediately notify a collector if the signer is qualified to sign the petition. This would help reduce post-filing-day litigation and increase voter confidence in the accuracy of signatures;
  - establishing penalties and legal remedies for candidates and elected officials who reside outside their districts; current law requires candidates to reside within their districts. However, New Mexico statute provides only a 10-day period after the filing deadline in which a candidate's residency can be challenged. Secretary Toulouse Oliver hopes that an enforcement method beyond the 10-day period might be provided in the 2019 legislative session;
  - defining transparency exemptions for sensitive election-security-related documents; transparency and safety are both top priorities for the secretary of state. Secretary Toulouse Oliver explained that her office will seek narrowly defined exemptions to the Inspection of Public Records Act for documents that might reveal voter information or expose vulnerabilities in election security and cybersecurity; and
  - fixing the Confidential Address Program (CAP) to allow for confidential voting; the CAP allows survivors of domestic violence and stalking to receive mail at a confidential address. A previous attempt to allow CAP participants to register and

vote confidentially was vetoed, but Secretary Toulouse Oliver will support reintroduction of the bill in 2019.

Secretary Toulouse Oliver stated that her office will also work toward campaign finance changes, including corrections to the Campaign Reporting Act and the Voter Action Act. Enforcement mechanisms for Public Regulation Commission-related campaign reporting requirements will also be created in the Campaign Reporting Act.

Other efforts by the Office of the Secretary of State will include allowing permanent absentee ballot listing, expanding tribal polling locations and meeting election security requirements.

The committee and Secretary Toulouse Oliver discussed possible difficulties surrounding open elections, including concerns that voters of other parties might flood a primary and the possible disenfranchisement of individuals who decline to state their party affiliations at registration. Members proposed that only unaffiliated or independent voters be eligible for open primaries. Blanket open primaries and same-day registration were also considered as possible solutions to disenfranchisement. A member noted that open primaries may increase voter participation and reduce hostility between opposing parties.

Secretary Toulouse Oliver explained the process of updating voter rolls. Voters can be asked to update their information at the MVD, and the information is then provided to the secretary of state. The multistate Electronic Registration Information Center (ERIC) helps identify people who have moved and registered to vote in another state, while the Social Security Administration provides data on deaths of voters. The secretary of state or a county clerk may also be notified when official election mail is returned undeliverable. A voter will then be sent a postcard requesting that the voter contact the secretary of state, vote or update the voter's registration. If the voter does not respond, the voter will be removed from the voter rolls. Secretary Toulouse Oliver stated that the costs of updating voter rolls is largely already included in the budget. She noted that, by statute, an individual must be registered to vote where the individual resides or intends to return.

Members discussed the possibility of including biometrics in voter identification, although it was noted that matching a photograph to a corresponding individual is difficult, even when photographs are up to date. Electronic signatures can face similar difficulties if not updated occasionally.

In response to questions, Secretary Toulouse Oliver informed the committee that one-time funding needs include restoring various funds, updating software and hardware to meet current population and security needs and providing education resources on the LEA.

### **Redistricting**

Dick Mason, vice president and action co-chair, League of Women Voters of New Mexico (LWVNM), and Meredith Machen, executive committee member, LWVNM, gave a

presentation on the redistricting procedure used in Iowa and the need for using a similar procedure in New Mexico.

Ms. Machen provided a brief history of redistricting in New Mexico. From the 1960 redistricting cycle to 1995, the U.S. Department of Justice vetted the maps approved by the legislature, and the governor complied with federal standards for fair representation. In the 2000 and 2010 redistricting cycles, the maps created for the New Mexico House of Representatives and the New Mexico Senate were the subject of litigation, and the New Mexico Supreme Court ultimately drew district lines. The New Mexico Legislative Council has adopted guidelines that meet federal criteria and state standards and that allow the process to consider incumbents. However, litigation still occurs, costing millions of dollars and reducing public confidence in the state legislature. Ms. Machen stated that the legislature has essentially ceded its redistricting authority to the courts under the current redistricting policy.

Mr. Mason explained that in Iowa, the Legislative Services Agency (LSA) creates maps based on federal and state criteria, which require that districts not be drawn to favor political parties or incumbency. The LSA is assisted by a Temporary Redistricting Advisory Commission, composed of appointments from the majority and minority leaders of both chambers as well as one member picked by the appointed four members. This commission provides guidance to the LSA if questions arise, and it holds public meetings for public input. The public input is then reported to the legislature. The legislature has three opportunities to adopt a map. After the first and second attempts, the LSA will create a new map. The third map may be amended slightly, but if it is not adopted, the maps go directly to the Supreme Court of Iowa. If the map is signed by the governor, it then becomes law. If the map is vetoed, it will go directly to the Iowa Supreme Court. Since this process was first used in 1981, the LSA's map has been adopted and no litigation has occurred.

Mr. Mason stated that the LWVNM has worked with the LCS to draft legislation to adapt the Iowa redistricting process for New Mexico, particularly for the house of representatives and senate. The league believes that allowing legislators to select their districts in redistricting is not conducive to democracy, and Iowa's incumbency statutes should be adopted in New Mexico.

In response to a member's question, Mr. Mason explained that Iowa is unique in its redistricting process; other states could also be considered. Mr. Mason stated that an independent redistricting commission does not have legislative support in New Mexico. Ms. Machen noted that sending redistricting litigation straight to the New Mexico Supreme Court could reduce litigation costs as a short-term solution. The LWVNM hopes to have the changes passed before the 2020 redistricting cycle begins.

Members of the committee noted that incumbents often come to understand their district's needs, and constituents in changed districts can be confused by altered districts. They discussed the use of independent redistricting commissions and public concerns of gerrymandering.

## **Election and Voting Trends in Other States**

Wendy Underhill, director, elections and redistricting, National Conference of State Legislatures (NCSL), presented a national perspective on election laws. The NCSL's election team provides state legislatures answers on elections, redistricting and campaign finance laws. It also tracks legislation and publishes as a newsletter called "The Canvass".

Ms. Underhill stated that during 2017 and 2018, more than 2,500 bills relating to elections were introduced in 48 states. Of those, 338 were enacted in 45 states, and 26 bills were vetoed in 10 states. Legislation relating to elections typically fits within four areas: voting, voter registration, election security and redistricting.

Regulations on voting include identification requirements, absentee voting, all-mail voting and restoring voting rights to ex-felons. Thirty-four states have laws requesting or requiring voters to show some form of identification at the polls, although Ms. Underhill noted that this number could rise with the advent of biometric identification. In 37 states (including three that mail ballots to all voters) and the District of Columbia, a qualified voter may cast a ballot in person during a designated period prior to Election Day. No excuse or justification is required. Thirteen states do not allow early voting and require an excuse, such as overseas military service, to request an absentee ballot.

Washington, Oregon and Colorado conduct all elections by mail. A ballot is automatically mailed to every registered voter in advance of Election Day, and traditional in-person voting precincts are not available. However, these states still provide one or more locations for voters to return mail ballots, vote in person and receive other voter services. Ms. Underhill reminded the committee that all special elections in New Mexico are conducted by mail. She acknowledged that questions of ballot integrity or voter fraud can arise in an all-mail system.

Vote centers, where voters may cast their ballots on Election Day at any vote center in the jurisdiction regardless of residential address, are allowed in 13 states, including New Mexico. These states are primarily in the western United States, and vote centers can be more convenient for some voters. This can be more difficult for rural voters, who may need to travel farther to vote.

Restoring voting rights to ex-felons has crept onto states' radars in recent decades. In Maine and Vermont, felons never lose their right to vote, even while incarcerated. Fourteen states and the District of Columbia provide automatic restoration of voting rights upon release. Twenty-one states, including New Mexico, provide automatic restoration upon completion of the sentence, including probation and parole. In the remaining 13 states, voting rights are lost indefinitely, require a governor's pardon for restoration or can be restored after an additional waiting period after the completion of a sentence. Ms. Underhill pointed out that Florida has a measure on its ballot to restore voting rights for people convicted of felonies who have completed their sentences, although convictions for murder or felony sex offenses are excluded.

Some current legislative proposals on voter registration include allowing teenagers to preregister, offering same-day registration and matching voter data between states. Seventeen states, including New Mexico, and the District of Columbia allow those who will be 18 by the general election to register and vote in the primary election. All but 12 states allow online voter registration, while 15 states currently allow Election Day registration. Thirteen states plus the District of Columbia have automated registration, where the MVD equivalent transfers records to voter registration. Ms. Underhill stated that she will add New Mexico to the list, as the secretary of state's administrative program fits the criteria. New Mexico is also one of 25 states that utilize ERIC to identify duplicate voter registrations between states.

Legislation on election security typically deals with the safety of voter registration rolls and the integrity of votes. In 2016, 21 states' voter registration systems were targeted by "bad actors". While no registration data appear to have been altered, voter records and data were viewed in Illinois, while a phishing email was used to gain access to voter information in Arizona. No votes or vote totals were likely altered in the 2016 elections because the majority of voting machines were not connected to the internet and one-third of all voters submitted ballots before Election Day. Some ballots were transmitted as PDFs attached to emails, which is a potentially insecure method.

The 2016 elections were primarily influenced by incorrect information in three categories:

- (1) disinformation, which is false information deliberately created to cause harm;
- (2) misinformation, which is false information but is not created with the intent to cause harm; and
- (3) malinformation, which is information that has a basis in reality and is used to inflict harm.

The sources of these types of information vary, but they typically come from malicious actors, including foreign nations, criminals and terrorists. Motives can include creating social division, subverting political opposition and undermining trust in democracy. Elections administrators should build secure cyber cultures and upgrade or fortify their systems. Legislators can combat bad actors by mandating the reporting of election results, posting election audits, requiring the use of paper ballots and creating election task forces. Ms. Underhill explained that task forces provide an opportunity for stakeholders to meet and hear from each other in a collegial manner.

Additional resources to evaluate elections include the Elections Performance Index from the Massachusetts Institute of Technology Election and Data Science Lab and the Center for American Progress.

Ms. Underhill explained that redistricting can be performed by the legislature or by commissions and boards. State legislative plans are created by the legislature in 37 states, while

commissions or boards create state legislative plans in 13 states. Congressional plans are created by the legislature in 43 states, while seven states use a commission or board. Other variations include redistricting in special sessions, bypassing the executive office or requiring more than a majority vote to pass redistricting bills. Iowa in particular is unique, Ms. Underhill reiterated, in that nonpartisan staff draw the maps and do not use political data in their plans. States that use commissions also have variations, including the number and qualifications of members and whether the commission has primary, advisory or backup responsibility for redistricting.

Redistricting reform has gained public attention in 2018. Utah, Missouri and Michigan have citizens' initiatives on the ballot, while Colorado has two legislative referrals on the ballot. Ohio passed a legislative referral in May 2018.

In response to questions from the committee, Ms. Underhill acknowledged that all-mail elections can be difficult for those experiencing homelessness or for those without a permanent address. Colorado provides voter services centers, which could alleviate some of the problems, but Oregon and Washington do not currently offer an alternative. Postage may be paid by the voter; alternatively, special non-postal secure drop boxes may be provided. Ms. Underhill stated that Colorado allows same-day registration for voters who reside in the state for eight days.

Members of the committee discussed early and absentee voting. Early voting locations vary by county needs and resources but must meet state requirements. Absentee ballots can be mailed in, placed in a secure drop box or returned directly to a county clerk's office or polling location. Secretary Toulouse Oliver stated that postage for ballots with missing postage will be paid by the county clerk's office, but the ballots may not be delivered on time.

Ms. Underhill and members discussed the need for properly training poll workers. Ms. Underhill stated that poll workers are human and can be inconsistent, but providing scripts and testing can reduce errors.

In response to a member's questions, Ms. Underhill explained that fairness is not a criterion for many redistricting processes. Federal and state standards must be met, but fair redistricting could have many definitions to different people and parties.

### **Public Comment**

George Richman, member, League of Women Voters of Central New Mexico, spoke in favor of same-day registration, open primaries and all-mail elections. He expressed hope that open primaries might encourage candidates to be more bipartisan to appeal to more voters.

### **Council of State Governments (CSG) Justice Reinvestment Initiative Update**

Carl Reynolds, senior legal and policy advisor, CSG Justice Center, and Michelle Rodriguez, policy analyst, State Initiatives, CSG Justice Center, updated committee members on progress on the CSG's recommendations for criminal justice reform.

Mr. Reynolds stated that CSG recommendations focus on issues with statewide impact, including expanding law enforcement and other criminal justice authorities' ability to divert certain criminal offenders, such as those engaged in drug-related crimes or who have obvious mental health issues, into treatment or other programs. He noted that additional behavioral health resources will be necessary to implement this strategy.

Mr. Reynolds discussed a peculiarity with regard to crime victim compensation in reference to slide 12 of his presentation. He noted that despite the availability of federal and state funds, CSG research indicates that crime victims' requests for compensation are often denied. Mr. Reynolds has not identified the cause, but he will research the issue.

Mr. Reynolds discussed data gathering, agreeing with Edward L. Chavez, retired justice, New Mexico Supreme Court, that obtaining accurate fingerprints and other data is crucial. He suggested that the state may need to establish a team of experts to travel to rural communities to provide training and support. He also noted the importance of reviewing data on a regular basis to ensure that the data are being obtained and are accurate.

Mr. Reynolds also agreed with Justice Chavez that the availability of effective behavioral health care is crucial to improving the criminal justice system and outcomes in New Mexico. Ms. Rodriguez noted that North Dakota, which shares many of New Mexico's geographic and demographic challenges, has implemented a grant program that rewards positive outcomes in rural treatment programs. The program is showing positive results, and the state hopes that the program will attract additional treatment professionals to expand rural services.

As to whether there is a connection between the reduction in mental health services and crime rates in Bernalillo County, Mr. Reynolds noted that there appears to be a correlation. He also pointed out that there is no statistical evidence of a correlation between the increased crime rates and the amendments to Article 2, Section 13 of the Constitution of New Mexico regarding bail.

Mr. Reynolds observed that there is generally a strong correlation between trauma experiences and female and juvenile involvement in the criminal justice system. He also observed that New Mexico has done a very good job of increasing the proportion of violent offenders as compared to others in its prisons. He noted, however, that an unusually large number of parole-eligible prison inmates have not been released. Other inmates are being released with no support or supervision, which increases the risk of recidivism. It appears that a significant part of the problem is that those inmates simply have no place to go. Currently, 30 percent of inmates in New Mexico prisons are there because of parole violations, and 80 percent of that 30 percent were originally convicted for drug violations.

Mr. Reynolds noted that research has shown that intensive outpatient treatment in the community has the highest success in deterring crime and that increasing penalties is not an effective deterrent.

In response to a question, Mr. Reynolds cautioned against using California's approach to prison reform. California reduced its prison population by sending people to county jails instead of state prisons. A member proposed closing a state prison and using the savings to fund behavioral health facilities.

### **The Alternatives to Violence Project in New Mexico Prisons and Program Evaluation Activities**

Harbert Rice, Alternatives to Violence Project of Northern New Mexico (AVP-NNM), and Linda Freeman, executive director, New Mexico Sentencing Commission (NMSC), informed the committee that the AVP-NNM serves New Mexico prisons and is working with the NMSC to develop a survey and recidivism study of the program.

Mr. Rice explained that the AVP-NNM is part of an international nonprofit, the Alternatives to Violence Project (AVP), which provides prison workshop programs in 34 states and more than 20 countries. The AVP-NNM has offered workshops in New Mexico prisons since 2005. Workshops are offered at the Penitentiary of New Mexico, Springer Correctional Center and Western New Mexico Correctional Facility. In 2017, the AVP-NNM conducted 21 workshops across the facilities and trained 221 inmate participants. The workshops were facilitated by nine outside volunteers and 23 trained inmate facilitators.

A workshop is typically held over two to three days and lasts 17 to 21 hours. Participation is voluntary for both inmates and facilitators. The AVP offers three workshop levels. The basic workshop focuses on respect for oneself and others, as well as communication skills and cooperation. The advanced workshop provides an opportunity to go deeper into conflict issues. The training for facilitators workshop allows for personal development by allowing inmates to be part of a facilitating team. Mr. Rice stated that inmate facilitators often have more influence with their fellow inmates and thus increase workshop effectiveness.

Gatherings, experiential exercises and "light and livelies" are the three main components of AVP workshops. Gatherings allow participants to share their experiences, while experiential exercises help develop interpersonal skills. Teams develop open-ended role-playing to act out problems an individual may face upon release and reentry. Discussion following the role-playing analyzes the dialogue and looks for alternatives to violence. "Light and livelies" are cooperative games designed to relieve tension and raise the group's energy level.

Mr. Rice stated that the AVP receives feedback from inmate participants via written evaluations that are completed at the end of a workshop. AVP facilitators also provide observations and reports on workshops. Studies on the long-term outcomes, such as recidivism rates, have also been completed by some states, including Delaware. Results often include increased self-respect and self-awareness, as well as increased motivation to change. Studies on the Delaware correctional facilities saw a reduction in write-ups one year after inmates completed AVP workshops, as well as reduced three-year recidivism rates for AVP participants.

The AVP-NNM is currently working with the NMSC to measure the effects of AVP workshops in New Mexico. The AVP-NNM has provided the NMSC with 12 years of participant evaluations, which include information on personal learning and how the workshop changed a participant's view on violence. Mr. Rice hopes that the NMSC study will provide insight into shifts in attitude and behavior. The study will also feed into a recidivism study.

Ms. Freeman added that the NMSC will create a report showing what inmates believe is most useful in the workshops, as well as any changes over time. She noted that surveys before and after the workshops would improve data quality, while inmates must consent to having their progress tracked after the program.

In response to a question, Mr. Rice explained that the high turnover rate in county jails makes AVP workshops difficult because inmate facilitators frequently leave. However, prison officers have used the program with some success.

### **Public Comment**

Joyce Victor, lead facilitator, AVP-NNM, stated that she facilitates at the Penitentiary of New Mexico but has also assisted at other facilities, including in solitary confinement. She spoke in favor of the AVP workshops because the format allows inmates to help each other.

### **Recess**

The committee recessed at 3:44 p.m.

## **Friday, October 19**

### **Reconvene and Introductions**

The meeting was reconvened by Senator Martinez at 9:19 a.m. Members introduced themselves.

### **Report and Recommendations of House Joint Memorial (HJM) 16 (2018) Criminal Justice and Public Safety Task Force (Task Force)**

Justice Chavez, Task Force chair, and Representative Daymon Ely, Task Force member, discussed the recommendations in "HJM16 Criminal Justice and Public Safety Task Force, Report and Recommendations to the Legislature". Justice Chavez stated that while the task force is not authorized to make funding recommendations, adequate funding is necessary for all stakeholders in the criminal justice system. Coordinating councils, such as the Bernalillo County Criminal Justice Coordinating Council (BCCJCC), could be used to analyze where and how funding could be used most effectively.

Justice Chavez discussed the 13 key recommendations of the task force, including:

- requiring a unique biometric identifier for criminal justice participants to be used by all criminal justice partners so that different crimes committed by the same individual may be identified. The state and federal crime databases are based on fingerprints.

While many county jails have fingerprint machines, some machines are broken, are out of date or lack people trained to use them, resulting in the use of paper fingerprinting. Funding the purchase of and training on fingerprint machines at all county jails is essential to maximizing the utility of the automated fingerprint identification system;

- designing a statewide framework to encourage information sharing among criminal justice partners. Information sharing would support data-driven policing, evidence-based public policy decisions and real-time evaluation of programs;
- amending behavioral health confidentiality laws to allow access to mental health information needed to continue the care of a criminal justice participant. De-identified information should also be shared for research that evaluates the efficacy of programs associated with the criminal justice system;
- requiring stakeholders in the criminal justice system to use evidence-based best practices performance measures;
- considering a neutral, independent oversight body to monitor performance and assist with data analytics for program evaluation. Justice Chavez suggested that the NMSC is the logical choice, but he noted that the organization would need more resources;
- allowing for more pretrial discretion and law enforcement diversion programs. Eliminating fees for such programs would likely be less costly to the state than the jail costs for program participants;
- supporting the funding of reentry programs such as halfway houses or transitional homes;
- expanding loan forgiveness programs to recruit and maintain the workforce associated with criminal justice. Justice Chavez explained that managing student loan debt on a current public servant salary is difficult, if not impossible;
- devising methods to encourage delayed retirement or a return to work after retirement for those in the criminal justice workforce;
- developing and expanding pretrial service programs. Representative Ely recognized the importance of evaluating program efficacy and funding efficient programs; and
- funding classes that wish to use the PAX Good Behavior Game initiative, which is a set of techniques designed to help students gain life skills.

Members of the committee discussed the use of a state identification number (SIN) using biometric information. The SIN would follow an individual throughout all aspects of the criminal justice system. Representative Ely recognized that there is a potential for misuse but that when paired with data analytics, such abuses would be easily detectable. Members expressed concern over how biometric SINs might affect juvenile justice and the expungement of criminal records.

In response to questions from the committee, Justice Chavez said that evening diversion courses have increased in attendance. He noted that Law Enforcement Assisted Diversion (LEAD) programs are gaining traction around the state. Santa Fe and Rio Arriba counties have obtained grants for their LEAD programs, but Bernalillo County still lacks \$400,000.

Members of the committee expressed concern that members of the public may not want halfway houses or transitional living facilities in their neighborhoods. It was noted that the City of Albuquerque's attempt to establish a tiny-house community for people experiencing homelessness is unpopular in many neighborhoods. Representative Ely and Justice Chavez said that they hope that community outreach and messaging would convince the public to support similar endeavors for the criminal justice system.

Members of the committee spoke in favor of growing the criminal justice workforce in New Mexico but expressed concern over so-called "return-to-work" legislation for retirees. A member noted that the Public Employees Retirement Association has stated that individuals who draw a pension while working are stressing the system in an unsustainable fashion. Representative Ely stated that allowing retirees to return to work without losing their pensions could grow the workforce in rural areas without drastically increasing salaries. A member stated that counties should levy the full gross receipts tax on their residents before requesting extra funding from the state to hire county officials. A member noted that current law enforcement officers who have returned to work and not suspended their pensions are paying member contributions but not accruing service credit, so they are actually supporting the system.

Grace Philips, general counsel, New Mexico Counties, expressed concern that pretrial services do not truly save money but, instead, transfer the costs around the criminal justice system.

In response to the committee's concerns, Representative Ely reiterated that involvement in the PAX Good Behavior Game would be on a voluntary basis and that performance measures would be necessary to ensure efficacy.

Justice Chavez informed the committee that federal grants may be available for some of the recommendations, although stakeholders may need grant writers to obtain such funding.

The committee expressed its appreciation for the work done by Justice Chavez and the Task Force.

### **Review of Data Collection, Analysis and Application in the Second Judicial District**

Jon Courtney, Ph.D., program evaluation manager, Legislative Finance Committee (LFC), and Travis McIntyre, Ph.D., program evaluator, LFC, provided an update on data use in the Second Judicial District.

Dr. Courtney reminded the committee of the LFC's evaluation of the criminal justice system in Bernalillo County, which concludes that worsening economic and social conditions in Bernalillo County have contributed to the rise in crime rates, while the criminal justice system has failed to hold offenders accountable or address root causes. He noted that crime trends vary across the state, but when Albuquerque is not included in the data, crime in New Mexico has decreased overall. Unfortunately, some communities have higher crime rates than Albuquerque, including Espanola, Belen, Gallup and Taos.

The LFC encourages the legislature to continue its support of evidence-based policymaking, in which program evaluations and oversight ensure that programs produce the necessary outcomes. Evidence-based policymaking is needed to establish system-wide goals for the criminal justice system in Bernalillo County, reduce the number of data and information silos in the state and remove obstacles to data sharing. Dr. Courtney stated that funding and staffing the BCCJCC would help stakeholders meet and develop evidence-based programs, as well as establish performance metrics to track system performance and coordinate efforts in data analytics.

Dr. McIntyre explained that data silos in Bernalillo County have created problems in the collection and completeness of evidence and have strained limited human and other resources. To address these problems, the legislature could require state and local government agencies to use a common identification numbering system, expand the powers of the NMSC to obtain and report data and develop data-reporting requirements. The LFC also recommends that silos be merged and goals for data analytics be developed. Caution is needed to ensure that data are used ethically and efficiently.

Dr. Courtney stated that since the program evaluation on Bernalillo County's criminal justice system was published, progress has been made. Law enforcement has increased its use of evidence-based policing, stakeholders have begun researching data-integration solutions and the BCCJCC has established a data and technology subcommittee. The BCCJCC, however, continues to suffer from attendance issues. System-wide strategic planning and performance management are necessary to reduce crime rates in Bernalillo County and in New Mexico.

Dr. Courtney stated that no official estimates have been provided from companies offering data analytics programs. Dr. McIntyre emphasized the need for oversight over and in-depth progress reports from any vendors with which the state may contract to develop a data analytics system.

### **Adjournment**

There being no further business before the committee, the sixth meeting of the CCJ adjourned at 1:06 p.m.

### **Tour**

Committee and staff members toured the City of Albuquerque's Real Time Crime Center and the Second Judicial District Attorney's Office Crime Strategy Unit.