

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

**September 6-7, 2018**  
**Central New Mexico Community College**  
**Student Resource Center, SRC 204**  
**900 University Blvd. SE**  
**Albuquerque**

The fourth meeting of the Courts, Corrections and Justice Committee (CCJ) was called to order by Senator Richard C. Martinez, co-chair, on September 6, 2018 at 9:48 a.m. in Room 204 of the Student Resource Center at Central New Mexico Community College in Albuquerque.

**Present**

Rep. Gail Chasey, Co-Chair  
Sen. Richard C. Martinez, Co-Chair  
Rep. Eliseo Lee Alcon  
Sen. Gregory A. Baca  
Sen. Jacob R. Candelaria  
Rep. Jim Dines  
Sen. Linda M. Lopez  
Rep. Antonio Maestas  
Rep. Sarah Maestas Barnes (9/7)  
Sen. Cisco McSorley  
Rep. William "Bill" R. Rehm  
Rep. Angelica Rubio (9/6)  
Sen. Sander Rue

**Absent**

Rep. Zachary J. Cook  
Rep. Javier Martínez

**Advisory Members**

Sen. Bill B. O'Neill  
Sen. John Pinto  
Sen. Mimi Stewart  
Rep. Christine Trujillo (9/6)  
Sen. Peter Wirth (9/7)

Rep. Deborah A. Armstrong  
Sen. William F. Burt  
Rep. Brian Egolf  
Rep. Doreen Y. Gallegos  
Sen. Daniel A. Ivey-Soto  
Sen. William H. Payne  
Rep. Patricia Roybal Caballero

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

**Staff**

Celia Ludi, Staff Attorney, Legislative Council Service (LCS)  
Randall Cherry, Staff Attorney, LCS  
Rebecca Griego, Records Officer, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Copies of all handouts are in the meeting file.

**Thursday, September 6****Call to Order and Introductions**

Senator Martinez welcomed members of the committee, staff and guests to the meeting.

**Welcome**

Tamra Mason, dean, School of Health, Wellness and Public Safety, Central New Mexico Community College, welcomed the committee and introduced Matthew Thomas, program director for the Criminal Justice Program at the college. Mr. Thomas discussed a number of initiatives that the college has introduced in the area of criminal justice. The college now provides police officer training, including an associate degree in criminal justice. The college is partnering with the Albuquerque Police Department (APD) as a satellite academy for training its officers and is working with the Department of Public Safety (DPS) to develop training and curriculum, including online classes on advanced investigation techniques and tribal law. The program has been approved by the New Mexico Law Enforcement Academy (NMLEA) Board.

A member asked for clarification on what the college is teaching with regard to tribal law. Mr. Thomas explained that the curriculum focuses on teaching tribal youth the basic duties and responsibilities of police officers.

In response to questions, Mr. Thomas explained the associate degree process. He noted that the college is not currently a part of the NMLEA, but it will be a part of the academy in the future. He also stated that the college is aware that a number of regional law enforcement agencies have lost officers due to lateral transfers to the APD because of the APD's recent salary increases. The college hopes to help address this problem by providing well-qualified applicants for positions with all of the law enforcement agencies in the state.

Mr. Thomas described the college's law enforcement program, noting that the college's philosophy is that law enforcement officers are "guardians" and not "warriors" and that it has classes that include teaching compassion. He affirmed that the college provides basic police training. Law enforcement agencies usually provide additional specialized training.

## **Update from the DPS**

Scott Weaver, secretary, DPS, addressed the recent backlog of unprocessed sexual assault test kits. He said that thanks to additional funds provided this year by the legislature, the DPS now has 11 DNA analysts and has made great progress in working through the backlog. He expects to have the backlog resolved within two months.

Secretary Weaver said that the DPS has run a number of samples through the Combined DNA Index System (CODIS), and 41 of the samples matched a person contained in the CODIS database. He also noted that none of the samples matched DNA obtained from suspect arrests. Finally, he said that he expects to retain all of the new DNA analysts, as the need will continue after the backlog is addressed to prevent a backlog from building up again. The DPS receives approximately 150 new cases per week that require DNA analysis.

Secretary Weaver also discussed problems related to data sharing among criminal justice entities. He noted that the DPS is working on a data-sharing system to allow magistrate judges to access a broad spectrum of information on defendants. The process is near completion and has been certified by the Department of Information Technology, but the DPS lacks the funds to complete the project. Further, court rules have changed since the project began, so the DPS will need the assistance of the Administrative Office of the Courts (AOC), as well as an additional infusion of funds.

In response to questions, Secretary Weaver explained that fewer than 100 sexual assault test kits remain in the backlog. Two DNA analysts work exclusively on the backlog kits, and the remaining nine work on new cases. He stated that officers are receiving improved training on how to handle the test kits and that the DPS is working on a new tracking system to ensure that the kits are handled correctly, including a method to allow victims to follow the test kit through the process. Finally, he said that one person is dedicated to following up with law enforcement agencies to ensure that the kits are handled properly after the DPS returns the kits to the originating agency.

In response to other questions, Secretary Weaver stated that DPS officers regularly collect palm prints pursuant to Section 29-3-8 NMSA 1978, but he could not speak to what other agencies do. He noted that the DPS has not experienced any loss of officers to the APD and that the number of uniformed officers in the DPS has, in fact, grown by 10 percent since 2011. However, he also noted that officer retention is a constant problem, and neither he nor his colleagues around the nation have found a solution.

A member suggested that best practices in identifying suspects should be used and taught in basic law enforcement training. Another member suggested that officers should receive more training in courtroom procedures and processes.

Finally, there was an extended discussion regarding data-sharing problems among criminal justice agencies. Secretary Weaver explained that the DPS is the central repository for criminal justice data, but it does not have the capability to share the data with all agencies.

Members expressed concern that the Office of the Second Judicial District Attorney appears to be developing a data system that will not interface with other agencies. The members directed staff to schedule a meeting with all of the affected agencies to attempt to find solutions to the data-sharing problem.

## **NMLEA**

Representative Rehm and Stephan Marshall, director, Training and Recruiting Division, DPS, discussed proposed legislation to create a Reserve Police Officer Act. Representative Rehm noted that while regular law enforcement officers must be certified by the NMLEA Board, the board has no authority over reserve officers. Further, local jurisdictions can hire reserve officers with no qualifications, and according to a report by journalist Larry Barker, some jurisdictions have sold local reserve officer commissions.

The bill would explicitly allow jurisdictions to commission reserve officers, but the officers would have to be trained and certified by the NMLEA. The NMLEA Board would have jurisdiction over the certification of all reserve officers and would promulgate rules to regulate the process.

A member suggested that retired or experienced officers should be authorized to work as reserve officers based upon lesser training requirements. Mr. Marshall responded that the proposed Reserve Police Officer Act gives the board authority to waive training requirements under certain circumstances. He noted that New Mexico already has a waiver process that allows experienced officers from other states to obtain regular certification after two weeks of special training in New Mexico law.

Another member suggested that the NMLEA should use new technologies for initial and continuing training to the extent possible.

## **New Mexico State Police Association (NMSPA) Update**

Jeremy Vaughn, president, NMSPA, expressed appreciation for the legislature's support of state police and discussed the NMSPA's concerns regarding the potential legalization of recreational marijuana in New Mexico and driverless/robotic electric vehicles.

Mr. Vaughn said the NMSPA believes that legalization of recreational marijuana will increase the number of persons driving under the influence of drugs. He stated that according to information obtained from Colorado and California, this has proven to be true in those states, resulting in an increase in fatalities related to marijuana. He also noted increased use of the drug among high school and middle school children. He stated that since marijuana was legalized for

recreational use in Colorado, the DPS has experienced an increase in seizures of marijuana resulting from traffic stops in New Mexico.

Mr. Vaughn said that the NMSPA also believes, based on the experience of other states, that legalization of recreational marijuana in New Mexico will cause the illegal market for marijuana to expand because it will likely encourage drug cartels and other illegal providers to expand their activities in New Mexico, especially given the large geographic area of, and relatively small law enforcement presence in, the state. He explained that the illegal market will expand because illegal providers can undercut the prices charged by legal producers, as illegal producers often use public lands for growing operations, use prohibited pesticides and chemicals to increase production, ignore expensive regulatory requirements and do not charge taxes to consumers or pay taxes to the state. This will increase the workload and dangers for law enforcement personnel, including forestry and game and fish officers. There is also a significant danger of an officer coming into contact with prohibited pesticides and herbicides and other dangerous chemicals used in illegal production and processing. The use of prohibited pesticides and herbicides and other dangerous chemicals may also cause significant environmental damage, especially to water.

The NMSPA is also concerned with the rapid progress in the development of driverless/robotic electric vehicles. Mr. Marshall cited a prediction that 95 percent of all vehicle travel will be done by robotic electric vehicles by the year 2030. The NMSPA believes that this will pose challenges to the way that DPS officers do their work, including detecting criminal behavior, as stops for driving violations often result in the discovery of other criminal activities. With driverless/robotic vehicles, driving violations presumably would be rare or cease altogether. The NMSPA encourages the legislature to consider and plan for this eventuality as soon as possible. The association is concerned that a widespread shift from gasoline to electric vehicles will cause a slump in the oil and gas industry on which New Mexico's economy is so dependent.

In response to questions, Mr. Vaughn noted that legalization of recreational marijuana would also likely strain the resources of tribal law enforcement.

A member acknowledged the concerns but suggested that all nonviolent drug-use offenses should be reduced to misdemeanors, triggering substance abuse treatment and other diversion services and reserving prison beds for violent offenders.

#### **New Mexico District Attorney's Association (NMDAA) Update**

Dianna Luce, district attorney, Fifth Judicial District, and president, NMDAA, and Henry Valdez, executive director, Administrative Office of the District Attorneys (AODA), discussed current issues of concern for district attorneys.

Ms. Luce listed the following issues of concern:

- school-related threats of violence: there are no laws specifically addressing this issue, and penalties for the offenses that could be charged, such as disruption of school activities, are too low. Thus, threats by juveniles are difficult or impossible to prosecute. The Children's Code should be amended to clarify what conduct is prohibited. A member invited the panel to present the problem to the Legislative Education Study Committee;
- driving under the influence of marijuana: current laws do not generally allow for a blood test, and it is impossible to detect marijuana using a breath test, so there is no prohibitive statute that could be used for charging offenders;
- extending the statute of limitations on second degree murder and manslaughter: DNA testing now allows for the resolution of cases long after the event, so extensions would allow more charges to be brought;
- application of the case management process required by the New Mexico Supreme Court in the Second Judicial District Court to other judicial districts: the case management order imposes radical time constraints with which most district attorney's offices will find difficult or impossible to comply. The NMDAA believes implementation in other judicial districts should be delayed to allow the affected parties to develop an alternative process. If implemented beyond the Second Judicial District, the case management order would require significant additional resources for both district attorneys and public defenders;
- pretrial mental health services: the lack of mental health services in rural communities often leads to delays in mental health testing and treatment, which in turn frequently results in long county jail stays for individuals awaiting competency tests and also limits probation options;
- body camera records: video recordings from police body cameras are often used as evidence in court cases, but the district attorneys do not have the technology resources to store, copy and produce the recordings; and
- pretrial detention hearings: New Mexico Supreme Court guidance for implementation of the recently amended Article 2, Section 13 of the Constitution of New Mexico has made it more difficult to hold dangerous suspects in jail pending trial. The district attorneys will propose an amendment to the Constitution of New Mexico to clarify the grounds for holding dangerous suspects in jail pending trial.

Mr. Valdez informed the committee that the AODA will conduct a workload study for all of the state's district attorney offices to determine their needs. The study will compare workloads from district to district. The district attorneys are also considering methods to simplify their budget processes, including the possibility of a unified budget request similar to the unified judicial budget. However, the latter presents practical challenges because the district attorneys do not have a supervisory body analogous to the supreme court's supervisory authority over the lesser courts.

Mr. Valdez discussed information technology issues, noting that the district attorneys are required by statute to create and maintain a statewide case management system (CMS). The

CMS is designed to enhance the prosecutorial process. For example, the CMS will soon include uniform jury instructions. He noted that the system does not store data, but it downloads data to the DPS on a weekly basis.

Mr. Valdez stated that the "consolidated offender query", which was designed to provide real-time criminal history to law enforcement and other users, now resides with the AODA. However, the system is inactive, as funding to maintain the program was vetoed. Nevertheless, the AODA is developing a process to allow defense counsel to obtain electronic discovery through the CMS. Victim notifications will also be done through the CMS.

A member asked what changes the district attorneys would seek in an amendment to Article 2, Section 13 of the Constitution of New Mexico. Ms. Luce responded that the amendment should include a list of serious offenses for which there is a rebuttable presumption that the suspect will not be released. This would reduce the number of release hearings.

In response to questions, the panel noted that assistant district attorneys generally only stay with an office for about two years, citing low salaries and high workloads as primary contributors to the turnover.

Members encouraged the district attorneys to request budgets that will fully meet their needs.

The members and the panel discussed the common problem of data sharing among criminal justice agencies, noting that there is much discussion among the parties but no current plan to address the problems. A member expressed concern that the state's largest district attorney's office may be developing an electronic information system that will not interface with any other system in the state and that this will likely compound the problems. The members again suggested a meeting among all of the affected agencies to attempt to address the problems.

#### **Law Office of the Public Defender (LOPD) Update**

Bennett J. Baur, chief public defender, LOPD, discussed current issues and plans for the LOPD, including its budget request. He stated that the LOPD will request a 19 percent budget increase. The funds will be used to add 29 attorneys, 27 support members, information technology improvements, increased funding for contract attorneys and a traveling team of experienced defense attorneys to assist attorneys in rural locations with complex cases.

Mr. Baur noted that the LOPD is currently conducting a workload study, including implementing a timekeeping system to determine how best to allocate resources. The study should be completed within two years. He noted that the LOPD lacks the minimum resources to meet the current needs in the state, and he observed that a significant part of the problem is the number of persons in the system for offenses related to mental health or substance abuse issues. He recommended that this population should be diverted from the criminal justice system to the

health care system to avoid wasting resources. The members and panel engaged in an extended discussion regarding alternatives to incarceration for this population.

A member asked whether improvements could be made using nonrecurring funds. Committee members and panel members suggested that funds could be used for training social workers and attorneys, for data storage equipment and for a more convenient location for the LOPD office in Albuquerque.

### **Recess**

The committee recessed at 5:15 p.m.

### **Friday, September 7**

### **Reconvene**

Senator Martinez reconvened the meeting at 9:15 a.m. at the Student Resource Center at Central New Mexico Community College in Albuquerque.

### **Bail and Pretrial Detention System Update**

The Honorable Charles W. Daniels, justice, New Mexico Supreme Court, reviewed the implementation of the pretrial detention process mandated by the amendments to Article 2, Section 13 of the Constitution of New Mexico.

Justice Daniels explained that crime rates in New Mexico have been trending upward for several years, not because the state did not incarcerate enough people prior to trial but, rather, because the state does not incarcerate the right people both pretrial and post-conviction. Prior to the adoption of the amendment, the state constitution provided that all persons arrested were entitled to pretrial release if they obtained a bail bond, regardless of the risk of committing a dangerous offense or fleeing to avoid trial. The result was that poor people who could not afford to post bond, even if they presented low risk of reoffending or fleeing, were detained in jail pending trial, while individuals with more financial resources might be released on bond even if there was high risk of reoffense or flight. Essentially, poor people were jailed pending trial and people with sufficient money to obtain a bail bond were released, and it did not matter if the accused person was a danger to others or a flight risk. However, when judges were concerned about an accused person's danger to other people, they often set bail so high that the person did not have financial resources to obtain a bail bond and, therefore, the person was detained pending trial. One person, who was jailed for more than two years awaiting trial because he could not afford the bond set by the judge, sued, and the New Mexico Supreme Court, in *State vs. Brown*, decided that "[i]ntentionally setting bail so high as to be unattainable is simply a less honest method of unlawfully denying bail altogether. If a defendant should be detained pending trial under the New Mexico Constitution, then that defendant should not be permitted any bail at all. Otherwise the defendant is entitled to release on bail, and excessive bail cannot be required." A copy of *State vs. Brown* and other materials provided by Justice Daniels are linked to the online agenda for this meeting at Item (6).



The amendment allows judges to detain high-risk offenders without setting bail and release low-risk offenders without reference to the offender's financial means to purchase release. Bail is still available and is set in some cases, but the Constitution of New Mexico now specifically provides that "[a] person who is not detainable on grounds of dangerousness nor a flight risk in the absence of bond and is otherwise eligible for bail shall not be detained solely because of financial inability to post a money or property bond."

The district attorney must file a motion to retain the person and has the burden to prove by clear and convincing evidence that releasing the person presents an unreasonably high risk to public safety. Courts can also rely on validated risk assessment tools, and the New Mexico Supreme Court has provided lesser courts with the Laura and John Arnold Foundation public safety assessment for this purpose. However, the court should make its determination based on the entirety of the evidence presented. Justice Daniels emphasized that a pretrial detention hearing should be short and simple and should not be a "mini-trial".

Justice Daniels noted public criticism of the new system, including that the system has reduced public safety. Referring to his slides at Item (6), he presented crime statistics that show a general downward trend in almost every area since the new system was implemented. In particular, he pointed out that the incidence of new felony charges within 60 days of being released dropped significantly between January 2017 and January 2018. He also noted a slight upward trend in the number of persons held in pretrial detention and explained that this is a result of denying the release of truly dangerous defendants. Overall, he said, the statistics indicate that judges are making good decisions and the system is working.

Justice Daniels discussed the issue of "failure to appear" (FTA) at subsequent proceedings after the initial detention hearing. He noted that FTA is a problem that requires significant judicial and law enforcement resources. The judiciary will seek additional staff to address this issue in its budget request. He noted that part of the solution is to make good decisions regarding pretrial release and to provide follow-up. This requires effective probation and parole supervision and access to criminal history information by the presiding judge. He also noted that each judicial district has a criminal justice coordinating council composed of representatives from all relevant agencies who meet regularly to discuss this and other criminal justice issues.

He noted that the Bernalillo County Metropolitan Court (metro court) has an effective data-sharing system that provides criminal justice information. Using this information, the metro court has also implemented a process whereby a judicial officer can remotely conduct detention hearings at the Metropolitan Detention Center via the internet. This program has proved to be very successful, and the judiciary intends to request funding to expand remote hearings and data-sharing capabilities to all of its courts.

Finally, Justice Daniels noted that the New Mexico Supreme Court has invited all interested parties to submit ideas and comments regarding potential improvements to the new

court rules. He said that the justices are reviewing extensive written comments and plan to present their recommendations to the legislature in the 2019 regular session.

Ms. Luce and Mr. Valdez informed the committee that they did not have formal presentations but, rather, were present to answer questions from the committee.

Mr. Baur briefly remarked that even though many accused persons are being released on their own recognizance without posting money or property bonds, pretrial release conditions, such as participation in substance abuse treatment, are common.

Panel member Jonathan Ibarra of the LOPD, who is a representative of the New Mexico Criminal Defense Lawyer's Association, provided some statistics regarding pretrial detention in Bernalillo County since January 2017. He said that 1,584 motions were filed in Bernalillo County during that time, of which 65.4 percent involved violent charges and 34.6 involved no violent charges in the criminal complaint. Of those 1,584 motions, 55 involved people with conditions of release for a denied detention motion, five involved people who picked up new charges in jail, nine were post-plea on a previous detention motion case and 22 were no longer on conditions of release for a previous detention case (not indicted or dismissed). The 1,584 total pretrial detention motions included 63 detention motions filed in murder cases, of which 48, or 76.2 percent, were granted. In the 48 murder cases where detention was granted, two defendants were acquitted, seven were dismissed or "nolled" ("nolle prosequi", or "do not prosecute") and two were not ultimately indicted. Of the 15 murder cases where detention was not granted, five were not released from custody and four were not indicted.

Committee members engaged the panel members in an extensive discussion regarding the new pretrial release process. A member asked what percentage of defendants reoffended after release and before trial. The panel responded that no study has been conducted to make that determination. Members suggested that more information is important on this and other issues prior to making any significant additional changes to Article 2, Section 13 of the Constitution of New Mexico. Arthur W. Pepin, executive director, AOC, stated that the AOC has begun a study on this issue, but he could not offer an estimated completion date.

In response to questions, Mr. Baur acknowledged that the new pretrial release process requires more resources at the beginning of a case, but he believes that the system is fair and often results in earlier case resolution because both sides have a better idea of the evidence and facts of the case, thus allowing earlier disposition and saving resources further down the road.

Ms. Luce described the pretrial detention process from a district attorney's perspective. She noted that the detention hearings require significant time. The district attorney must gather and review the evidence concerning the current charges, review the defendant's criminal history, draft the motion, contact and schedule witnesses and attend the hearing, which may last half a day. She said that in rural communities, the hearing does, in fact, resemble a mini-trial, and a district attorney will need more resources to effectively meet these new requirements.

She suggested that amending Article 2, Section 13 of the Constitution of New Mexico to add a list of offenses that create a rebuttable presumption that the defendant will not be released would be very helpful. She noted that New Mexico is the only state using this pretrial model without such a list.

A member reminded the committee that the new process actually increases public safety because, previously, every defendant who could pay for a bond was released, regardless of the defendant's level of risk. Now the district attorney has the ability to seek denial of release.

### **Judiciary's Unified Budget and Proposed Legislation**

The Honorable Judith K. Nakamura, chief justice, New Mexico Supreme Court, and Mr. Pepin discussed the judiciary's unified budget and proposed legislation.

Referring to her handouts at Item (7), Chief Justice Nakamura provided an overview of the judiciary's unified budget, highlighting four priorities.

1. Simplify the judiciary's organizational structure and streamline case processing to improve internal efficiencies and better deliver fair, timely justice. As part of this priority, the judiciary will seek additional funding for judicial education. Chief Justice Nakamura further explained that the state has seven different types of courts, most of which could be consolidated in the district court. She said that these courts often impose a significant financial burden on rural communities, and she noted that the judiciary is working with the New Mexico Municipal League on this issue. The judiciary is also piloting a program in the Twelfth Judicial District to consolidate the administrative functions of the district and magistrate courts. There was discussion of the possibility of closing low-volume magistrate courts. The judiciary is statutorily prohibited from employing part-time magistrate judges, but it uses contract judges to help magistrate judges in courts where the caseload is too large for the existing judges but not large enough for an additional full-time judge.
2. Expand the use of technology, especially online services, to permit greater convenience and service to the public. In particular, institute an online alternative dispute resolution program and a "guide and file for basic divorce cases" program. Approximately 50 percent of all civil cases are filed by self-represented individuals, and a higher percentage of family law cases, such as divorce and custody, drive the need for better service to the public.
3. Enhance public access to and understanding about court processes. Projects include consideration of a limited legal license technician, which would allow persons without law degrees but with a certain level of legal training to provide certain services that currently must be provided by a licensed attorney.
4. Promote safer, more secure, user-friendly court facilities.

Chief Justice Nakamura summarized some of the legislation the judiciary plans to propose as follows:

- allowing metro court appeals to go directly to the New Mexico Court of Appeals instead of to district court, which would be contingent on voter passage of the constitutional amendment authorized by Senate Joint Resolution 1 (2017);
- allowing persons age 75 years and older to request excusal from jury duty without the requirement of an affidavit;
- requiring the Corrections Department to notify district attorneys when inmates are released;
- providing salary increases for judges; and
- proposing a constitutional amendment allowing judges to sit for at least one year before they are subject to a retention election.

Mr. Pepin discussed the judiciary's unified budget request at Item (7), noting that many of the requests address statewide issues.

A member expressed concern regarding jury service and court delays, particularly with regard to civil cases. He asked whether the proposed budget would address these concerns. Chief Justice Nakamura acknowledged that civil cases currently move at a relatively slow pace. She said that the funds requested in the budget would not provide a comprehensive solution to these problems, but the judiciary has taken measures to improve the situation. The member requested that the AOC provide information and a funding request that would speed up the civil trial process.

### **Legislative Finance Committee (LFC) Drug Court Evaluation Report**

Brian Hoffmeister, program evaluator, LFC; Maria Griego, program evaluator, LFC; and Robert Mitchell, senior statewide program manager for problem solving courts, AOC, discussed issues regarding state drug courts.

Mr. Hoffmeister summarized the "LFC Evaluation of Adult and Juvenile Drug Courts", at Item (8), and its key recommendations.

Mr. Mitchell said that he agrees with the LFC evaluation and recommendations. The AOC has been working on implementing those recommendations. He noted that the AOC has difficulty evaluating the various courts' biannual performance reports because each drug court operates autonomously, and the Secure Odyssey Public Access (SOPA) case management system is not currently configured to support them. The AOC is working on modifying the SOPA to include specialty courts to provide uniform reporting from each of the courts. The AOC will require additional information from courts that operate drug courts, including information on Medicaid funding and law enforcement and judges' time usage. The AOC is working with Northpointe, Inc., an information technology consulting firm, to develop automated risk-needs assessments and case-management processes for the courts. The AOC is pilot testing these processes in seven courts and adjusting the processes to meet specific local needs.

The AOC is making operational changes to ensure that its certification standards for its programs and personnel meet national best practices, including working with a national organization to implement best practices in juvenile drug courts. The AOC is also working with the Children, Youth and Families Department (CYFD) to help determine what changes might be appropriate to improve outcomes in juvenile drug courts.

A member asked why participation and graduation rates in juvenile drug courts are declining. Mr. Mitchell responded that there are many complex factors, including that law enforcement has limited resources and that there is a declining number of offenders due to the success of other initiatives. The AOC is working with the CYFD to study whether earlier interventions might prove more helpful.

In response to questions, Mr. Mitchell said that the AOC hopes to improve outcomes by implementing validated assessment tools, avoiding mixing high-risk and low-risk clients and exploring earlier intervention. The AOC is working with the CYFD, the Department of Health, the Human Services Department (HSD) and other agencies to develop a strategic plan to implement an integrated approach to addressing all of those problems.

A member reminded the committee that drug courts are completely voluntary; judges are not paid for their time administering drug courts.

### **Public Comment**

Robert Work, managing attorney with the LOPD's mental health unit, raised the issue of problems resulting from the small number of mental competency evaluators in the state. He explained that certain defendants must be evaluated to determine whether they are competent to stand trial. Because of the limited number of evaluators, this process can take an extended period of time, and the defendant may remain in jail pending the evaluation, during which time the defendant is not receiving needed treatment and the defendant's condition often deteriorates. Mr. Work said that the wait for an evaluation in Bernalillo County averages about three months. In rural communities, the wait can be much longer. The counties bear the cost of housing a defendant pending an evaluation. It is a bad situation for both defendants and counties.

While approximately 30 professionals in New Mexico are qualified to conduct these evaluations, only five or six are contracted statewide. Bernalillo County has only one evaluator. Mr. Work stated that the reason for the low participation rate is that while the current market rate for an evaluation ranges from \$2,500 to \$3,000, the HSD, which is the agency responsible for paying for the evaluations, pays only \$700. The rate has not been raised in 20 years.

In response to a member's question, Mr. Pepin said that a statutory change would be required for the AOC to take over responsibility for providing court-ordered competency evaluations. He suggested that an alternative would be to appropriate the money to the HSD with directions to raise the rates. It was moved and seconded that the committee would write a letter to the HSD, with a copy to the Legislative Health and Human Services Committee (LHHS),

asking how many competency evaluation requests are pending and how long it takes for them to be completed. The committee also suggested that Mr. Work address the LHHS on the issue.

**Adjournment**

There being no further business before the committee, the fourth meeting of the CCJ for the 2018 interim adjourned at 3:15 p.m.