

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

**June 21, 2017  
State Capitol, Room 322  
Santa Fe**

The first meeting of the Courts, Corrections and Justice Committee (CCJ) was called to order by Representative Gail Chasey, co-chair, on June 21, 2017 at 10:09 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Gail Chasey, Co-Chair  
Sen. Richard C. Martinez, Co-Chair  
Rep. Eliseo Lee Alcon  
Sen. Gregory A. Baca  
Sen. Linda M. Lopez  
Rep. Antonio Maestas  
Rep. Sarah Maestas Barnes  
Sen. Cisco McSorley  
Rep. Angelica Rubio  
Sen. Sander Rue

**Advisory Members**

Rep. Deborah A. Armstrong  
Sen. Bill B. O'Neill  
Sen. John Pinto  
Sen. Mimi Stewart  
Sen. Peter Wirth

**Staff**

Monica Ewing, Staff Attorney, Legislative Council Service (LCS)  
Diego Jimenez, Research Assistant, LCS  
Peter Kovnat, Staff Attorney, LCS  
Celia Ludi, Staff Attorney, LCS

**Guests**

The guest list is in the meeting file.

**Absent**

Sen. Jacob R. Candelaria  
Rep. Zachary J. Cook  
Rep. Jim Dines  
Rep. Javier Martínez  
Rep. William "Bill" R. Rehm

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

## **Handouts**

Copies of all handouts are in the meeting file.

## **Wednesday, June 21**

### **Call to Order**

Representative Chasey welcomed members of the committee, staff and guests to the meeting.

### **Criminal Justice Reform**

Alison Lawrence, director, Criminal Justice Program, National Conference of State Legislatures (NCSL), explained that much of the sentencing and corrections reform information in her presentation materials (Item (1)) is based on research performed by the Public Safety Performance Project (PSPP) of The Pew Charitable Trusts (Pew) to support policies developed by the Justice Reinvestment Initiative with participating states. The initiative is a public-private partnership that includes the U.S. Department of Justice (DOJ) Bureau of Justice Assistance, Pew and other governmental and nongovernmental organizations. The PSPP helps states advance fiscally sound, data-driven policies and practices in the criminal and juvenile justice systems to protect public safety, hold offenders accountable and control corrections costs. Ms. Lawrence added that many states have initiated corrections and sentencing reforms because of the enormous expenses associated with a skyrocketing prison population that has resulted from state policies that place more offenders behind bars for longer periods of time. The PSPP has worked directly with more than a dozen states to help them develop research-based sentencing and corrections policies and practices that slow the growth of prison costs while reducing recidivism rates and keeping communities safer.

Referring to her presentation materials (Slide 2), Ms. Lawrence noted that the violent crime rate has been decreasing steadily since the early 1990s, but the prison population has been steadily increasing. As a result, prisons now hold more nonviolent offenders; prison populations are higher than ever; and the costs of corrections systems have steadily increased.

Ms. Lawrence said that prison admissions are driven both by sentencing and by penalties for probation and parole violations. Accordingly, two ways to decrease admissions are to impose community-based sentences instead of incarceration and to use an alternative to incarceration for probation and parole violations. Both approaches require improvements in the quality of community-based supervision to support rehabilitation and reduce recidivism.

Time spent in prison can be reduced through early release and by establishing professional standards for members of parole boards. Ms. Lawrence remarked that many states now set professional qualifications and require training for parole board members to ensure that parole decisions are based on research that supports decisions and not on any particular ideology.

Ms. Lawrence stated that research on states where corrections reforms have been in place for some time shows that reducing prison populations by use of community-based sentences, alternatives for rule violations and accelerated release has not resulted in an increase in violent crime; in fact, most states that have enacted reforms are seeing drops in crime rates of all kinds, mostly because of the intensive supervision and support that are provided in lieu of incarceration. For example, South Carolina's prison population decreased by 30 percent after it instituted alternatives to incarceration for administrative probation and parole violations.

Ms. Lawrence explained the six successive phases of criminal justice reform, which are related but which are usually implemented through separate legislation. Those phases are: policing; pretrial; sentencing; supervision; release; and reentry.

Ms. Lawrence commented (referring to Slide 4) that community policing is a current trend, and she added that community policing was not addressed heavily through legislation until about three years ago. She noted that the City of Santa Fe's Law Enforcement Assisted Diversion program is a nationally recognized and studied approach to diversion from incarceration and the criminal justice system. She observed that research shows that a pretrial stay in jail for as few as two days can have cascading negative economic and social effects both for an offender and a community, and it dramatically increases the chances that the offender will reoffend. The primary purpose of pretrial diversion programs is to hold offenders accountable for their offenses and, ideally, to reduce the number of offenders with convictions on their records. New Mexico's courts have been closely involved in development of pretrial release protocols, as well as a proposed constitutional amendment that would allow release of certain offenders without bail, which passed the 2016 legislature.

Ms. Lawrence addressed sentencing and supervision and said that a number of states have made substantial revisions to their criminal codes, primarily to clarify and redefine elements of criminal offenses and to restructure penalties to align with the seriousness of offenses. She referred to her materials (Slide 5), which showed some of the necessary elements of a successful supervision and diversion program. She said that a government cannot just divert offenders from prison; it must also provide effective supervision to achieve success and reduce recidivism. The use of evidence-based programs is especially important in this regard; for example, "boot camps" are popular proposals, but research shows that while a few such models have been successful, most, especially the more punitive models, fail to affect participants' recidivism rates.

Ms. Lawrence remarked that research shows that after seven years in prison, prisoners are likely to remain in prison; even if they are released, chances are great that they will reoffend and return to prison. This is why early release is an important component of reducing total prison populations. Early release must be combined, though, with strong support for offenders' reentry into their communities, including employment support. She added that many reentry programs have strong grassroots community support from churches and chambers of commerce. Some states have begun to explore a policy by which offenders may obtain a certificate of rehabilitation or employability upon release. Early reports show that such certificate programs, along with

policies that limit employer liability for hiring ex-offenders and a state's liability for issuing the certificates, are effective in helping a released offender obtain employment. She added that the Collateral Consequences Resource Center is monitoring the use of certificates.

Ms. Lawrence said that an important and growing issue in prison populations is behavioral health, particularly drug addiction and mental illness. States are already strengthening their behavioral health programs, and new federal money will be available soon to support those efforts.

In summary, Ms. Lawrence said that prison reform is expensive and essential. States are funding criminal justice reform by reallocating real or projected savings into treatment programs, performance incentive funding, training and the use of risk and needs assessments and by reinvesting in justice systems and programming. Ms. Lawrence reported that states that have been enacting reforms for a few years are now starting to see savings. For example, in 2010, South Carolina enacted a criminal justice reform bill that prioritized prison space for violent offenders and focused on reducing recidivism by diverting some offenders from prison and increasing community supervision and support. The reforms added to the list of violent crimes; expanded diversion, treatment and prison "good time" programs; required evidence-based community supervision; and created alternatives for probation and parole rule violations. By 2013, South Carolina saw an eight percent decline in its prison population and has closed three prisons.

Prison reforms occur on three levels: local, state and federal. Ms. Lawrence reported that there is a nationwide effort called the Safety and Justice Challenge, which aims to support local jail reforms and to reduce over-incarceration by changing the way America thinks about and uses jails. The initiative is supported by a five-year, \$100 million investment by the John D. and Catherine T. MacArthur Foundation. The 34 counties, four cities and two statewide systems participating in the initiative will develop and model effective ways to ensure that people who do not belong in jail are kept out, to more effectively reintegrate those who must be confined into the community upon release and to help offenders stay out of jail after release.

Ms. Lawrence observed that the U.S. Congress has an appetite for criminal justice reform on the federal level, which is not shared by the DOJ. She noted that a May 12, 2017 memorandum from U.S. Attorney General Jeff Sessions to all federal prosecutors establishes the charging and sentencing policy for the DOJ and instructs prosecutors to charge and prosecute the most serious and readily provable offenses in each case, which offenses carry substantial sentences, including "mandatory minimum" sentences that limit an offender's ability to obtain early release through good behavior. She does not expect significant federal criminal justice reform action for two or three years, except as it may relate to border security and human trafficking.

A member asked if there are any national studies on community policing and criminal justice reforms as they relate to Ferguson, Missouri. Ms. Lawrence said there is one, but it has not yet been published.

Members asked for more information regarding legal cannabis, including information on tax revenue, the effects on and any savings for criminal justice systems and changes in levels of drug-related offenses.

Members also asked for more information on the effects on accused people when they are arrested and jailed, including lost employment, asset forfeiture, garnished wages, warrant and other fees and the ability to pay child support. A member also asked for additional information on issues collateral to conviction, including interruptions in child custody responsibilities and arrangements. Ms. Lawrence responded that the NCSL is working on a study related to those requests.

A committee member asked about criminal justice issues specific to women, including relationships with children and families and the opportunity to breastfeed while incarcerated. Ms. Lawrence replied that the National Institute of Corrections, an agency within the DOJ, has considerable information on the topic. She noted that a number of issues arise because women are a small proportion of total prison populations. Housing female inmates is of particular importance because there are fewer facilities to accommodate women, so women are more likely to be housed in facilities far from their homes, which affects familial relationships.

A member expressed interest in whether the U.S. attorney general's proposed budget includes an increase in funding for processing sexual assault examination kits.

Referring to Ms. Lawrence's materials (Slide 7), a member commented that Albuquerque has not experienced a reduction in subsequent offenses when offenders are released from jail pending trial. The member noted that there have been a couple of widely reported cases in which an offender released from pretrial detention committed several subsequent offenses after release. Ms. Lawrence responded that the Laura and John Arnold Foundation's Criminal Justice Initiative has compiled considerable research on pretrial release and recidivism.

Another member commented that criminal justice reforms are sometimes criticized as being a "soft-on-crime" approach because reforms might benefit offenders. Ms. Lawrence said that the best approach is to base reforms on evidence showing the effectiveness of the changes. She added that states whose legislative, executive and judicial branches cooperate with each other experience good results from criminal justice reforms. She also observed that some states have referred to reforms as being "right on crime" or "smart on crime" rather than "soft on crime", and she said that a comprehensive public education approach — including town hall meetings, op-ed pieces and public polling — is important in providing the public with information on why criminal justice reforms are important.

### **Review of 2017 Committee-Endorsed Legislation**

Ms. Ewing presented a summary of the outcomes of bills that the CCJ endorsed in 2016 and that were introduced during the 2017 session. She highlighted that of the 18 committee-endorsed bills that were introduced, 10 passed the legislature and four were signed into law, including Senate Bill 60, Senate Bill 65, House Bill 12 and House Bill 181. She added that another piece of legislation — Senate Joint Resolution 1, which proposed a constitutional amendment to give the legislature authority to establish appellate jurisdiction in certain cases — also passed the legislature and will be voted on in the 2018 general election. Finally, she said that five of the committee-endorsed bills were vetoed, another five did not pass the legislature and three were not introduced in the 2017 session.

### **Work Plan and Meeting Schedule Discussion**

The committee discussed its proposed work plan and agreed to include the following additional topics to those proposed:

- the Corrections Department budget, staffing and staff training;
- funding for sexual assault programs and a review of procedures related to the processing of sexual assault examination kits as required by Senate Bill 474 and Senate Bill 475 from the 2017 session;
- the "school-to-prison" pipeline and mental health as those items relate to the Children, Youth and Families Department;
- funding of domestic violence programs;
- medical cannabis;
- the Office of Superintendent of Insurance's risk and solvency assessments;
- law enforcement eyewitness identification procedures; and
- the Office of the State Auditor's pay equity audit.

### **Public Comment**

Meredith Machen, president of the League of Women Voters of New Mexico, offered the league's help with public awareness campaigns on criminal justice reform issues, and she expressed strong support for specialty and problem-solving courts.

Lucy River, director of policy and communications for New Mexico Ethics Watch, and Heather Ferguson, legislative director, Common Cause, expressed support for the inclusion of ethics and government accountability on the committee's work plan.

A lobbyist for the Bail Bond Association of New Mexico offered to provide information on the work of the association and the association's impact on the state's economy and on society.

A representative of Gerald Madrid Bail Bonds commented that the bail bonds industry contributes to New Mexico's economy and public safety. He said the industry has a lot to offer the state but is disappointed that the industry is just 10 percent as large as it was a few years ago.

**Adjournment**

There being no further business before the committee, the first meeting of the CCJ for the 2017 interim adjourned at 12:37 p.m.