



**New Mexico State Legislature
Corrections Oversight and Justice Committee**

**2005
INTERIM REPORT**

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Santa Fe, New Mexico*

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Work Plan and Meeting Schedule

**2005 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

The Courts, Corrections and Justice Committee was created by the Legislative Council on May 9, 2005.

Membership

Rep. Joseph Cervantes, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Gail C. Beam
Sen. Carroll H. Leavell
Sen. Richard C. Martinez

Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Sen. Leonard Tsosie
Rep. Peter Wirth
Rep. Eric A. Youngberg

Advisory Members

Sen. Ben D. Altamirano
Rep. Hector H. Balderas
Sen. Kent L. Cravens
Sen. Mary Jane M. Garcia
Sen. John T.L. Grubescic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Rep. W. Ken Martinez
Sen. Gerald Ortiz y Pino

Rep. Greg Payne
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Thomas E. Swisstack
Sen. James G. Taylor

Work Plan

During the 2005 interim, as time permits and as directed by the Legislative Council, the committee proposes to:

- A. hear presentations from the judiciary and court administrators on:
- 1) specialized courts, including adult and juvenile drug courts and mental health courts;
 - 2) domestic violence special commissioners;
 - 3) mediation and alternative dispute resolution programs;
 - 4) guardian ad litem issues in domestic relations cases;
 - 5) provision of court and district attorney facilities by counties;

- 6) unified budget and legislative initiatives;
- 7) pre-trial pleas and the early plea program in Bernalillo County; and
- 8) the jury system and how jury members are treated;

B. examine, oversee and monitor issues related to corrections and correctional facilities as follows:

- 1) population control efforts and options for additional bed space;
- 2) treatment programs and their impact on recidivism;
- 3) opiate replacement therapy for inmates;
- 4) caseloads of probation and parole officers;
- 5) complaints of inmates and responses from institutions;
- 6) fees to counties for holding state prisoners; and
- 7) causes of rising jail and prison populations;

C. examine issues relating to criminal justice as follows:

- 1) driving under the influence of intoxicating liquor or drugs (DWI):
 - a) record-keeping problems in tracking prior DWI offenses through MVD;
 - b) Albuquerque's DWI ordinance;
 - c) information technology system in Bernalillo County to identify and lower dismissal rate for DWI; and
 - d) ignition interlock and people who must drive as a part of their job;
- 2) domestic violence:
 - a) treatment of domestic violence offenders before prosecution and upon conviction;
 - b) whether treatment providers for domestic violence offenders are meeting statutory requirements;
 - c) how the Domestic Violence Offender Treatment Fund is working;
 - d) implementation of domestic violence victim notification program;
 - e) whether to require the abuser to leave the house rather than the victim and children; and

f) costs and impact of domestic violence on transportation, housing and shelter accommodations;

3) FY 2004 data report on the NM criminal justice system;

4) financing criminal justice - report from the Supreme Court Criminal Justice

Task Force;

5) the use of stun or TASER guns by law enforcement officers;

6) truth in sentencing and updates on sentencing at the federal and state level;

7) disparity in sentencing between powder and crack cocaine;

8) relationship between immigration and state and federal law enforcement;

9) revision of fees for public defender contracts with defense attorneys;

10) formation of commission to oversee the Public Defender Department; and

11) seriousness of offenders on the sex offender web site;

D. examine juvenile and youth issues as follows:

1) update from the Children, Youth and Families Department on juvenile justice services, rehabilitation, treatment, community services, mental health and other juvenile and delinquency issues;

2) reports on community programs such as the juvenile justice continuum of services in the Sixth Judicial District;

3) meet with youth group leaders on gangs, drugs and issues relevant to youth;

4) school attendance and enforcement of truancy programs;

5) reports from Youth Development, Inc., and Metro Assessment Treatment Service Center;

6) examine gender equity issues in the juvenile system;

7) examine need for residential mental health treatment facility for girls (like Sequoyah for boys);

8) report from UNM Law School Ombudsman Program for juvenile facilities;

9) examine revision of children's mental health and developmental disability article;

10) look at the impact of methamphetamine on juveniles; and

11) visit Springer and Camp Sierra Blanca;

E. examine the feasibility of salary increases for:

- 1) juvenile and adult probation and parole officers;
- 2) social workers;
- 3) corrections officers;
- 4) county sheriffs (minimum pay is set in statute); and
- 5) state crime laboratory analysts;

F. examine whether to extend term limits for sheriffs to four consecutive terms;

G. look at improving the State Crime Laboratory;

H. examine the Department of Public Safety's compensation plan;

I. look at compensation to surface landowners for damage caused by oil and gas operations;

J. review environmental standards for air and water quality, and enforcement of environmental permits, standards and regulations;

K. examine the legal issues for the state in light of the supreme court ruling on the medical use of cannabis;

L. receive an update on state water rights and water adjudication in southern New Mexico;

M. receive reports on payday loan legislation and election reform;

N. hear recommendations on reducing uninsured motorists among low-income populations;

O. examine whether to require notification to beneficiaries of wills and trusts before death of testator;

P. review legislation from the New Mexico Sentencing Commission and the Corrections Department that did not pass in the 2005 session;

Q. examine related issues as appropriate; and

R. recommend legislation or changes in existing law to the legislature.

2005 APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
June 9	Santa Fe
July 18-19	Las Vegas (7/18) Springer (7/19)
August 22-23	Camp Sierra Blanca
September 21-22	Las Cruces
October 17-18	Santa Fe
November 28-29	Santa Fe

Agendas

**TENTATIVE AGENDA
for the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**June 9, 2005
Room 322, State Capitol**

Thursday, June 9

- | | |
|------------|---|
| 10:00 a.m. | Call to Order
—Representative Joseph Cervantes and Senator Cisco McSorley,
Co-chairs |
| 10:15 a.m. | Development of Work Plan, Meeting Schedule and Budget for
the 2005 Interim |
| 12:00 noon | Adjourn |

Revised: July 15, 2005

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**July 18, 2005
United World College, Auditorium
Montezuma, NM**

**July 19, 2005
New Mexico Boys' School
Springer, NM**

Monday, July 18

- 10:00 a.m. **Call to Order**
—Senator Cisco McSorley and Representative Joseph Cervantes,
Co-chairs
- 10:05 a.m. **City of Albuquerque's DWI Ordinance: Review of Ordinance,
Vehicle Seizure, Costs, Revenues and Legal Status**
—Stan Harada, Assistant City Attorney
—Les Brown, APD, DWI Forfeiture Program
—James Davis, Director, Division of Government Research, UNM
- 10:40 a.m. **Albuquerque's Vehicle Seizures; New Mexico's DWI Statute**
—Charles E. Knoblauch, DWI Defense Attorney
—Bill T. Tinker, DWI Defense Attorney
—George Bach, Staff Attorney, ACLU of New Mexico
- 11:15 a.m. **DWI: Statistical Trends and Program Highlights**
—Rachel O'Conner, DWI Coordinator for the Governor
- 12:00 noon **Lunch**
- 1:15 p.m. **Snapshot of State Inmate Population in Fiscal Year 2004**
—Paul Guerin, Ph.D., NM Sentencing Commission

- 1:30 p.m. **Inmate Growth, Population Control Strategies, Early Release Programs and Proposal for New Prison in Clayton**
—Joe Williams, Secretary, NM Corrections Department (NMCD)
—Jolene Gonzales, Deputy Secretary, NMCD
—Erma Sedillo, Deputy Secretary, NMCD
—Mike Running, City Manager, Clayton
- 3:00 p.m. **Private Prison Contracts and Costs**
—Renada Perry, Analyst, Legislative Finance Committee
- 3:30 p.m. **Recidivism Among Female Offenders, Programs for Women and the Camino Nuevo Facility**
—Maureen Sanders, President, NM Women's Justice Project
—Angie Vachio, Vice President, NM Women's Justice Project
- 4:30 p.m. **Youth in Drug Court Program**
—Garrett Alvey
—Ashley Russell
- 5:00 p.m. **Public Comment**
- 5:15 p.m. **Recess**

Tuesday, July 19

- 10:00 a.m. **Tour and Briefing on New Mexico Boys' School**
—Dr. Mary-Dale Bolson, Secretary, Children, Youth and Families Department
—William Gregoricus, Director, Juvenile Justice Services, CYFD
—Ed Abreu, Superintendent, NM Boys' School
- 12:00 noon **Adjourn**

Revised: August 19, 2005

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**August 22-23, 2005
Fort Stanton Residential Treatment Center
Fort Stanton, NM**

Monday, August 22

- 10:00 a.m. **Call to Order**
—Representative Joseph Cervantes and Senator Cisco McSorley,
Co-chairs
- 10:05 a.m. **Approval of Minutes**
- 10:10 a.m. **Children, Youth and Families Department:**
- **Update on Shift to Front-End Services**
 - **Gang Prevention Initiatives**
 - **Changes in the Children's Code**
 - **Children in Domestic Violence**
- Mary-Dale Bolson, Secretary, Children, Youth and Families
Department (CYFD)
—William Gregoricus, Director, Juvenile Justice Services, CYFD
- 12:00 noon **Lunch**
- 1:30 p.m. **Gender Equity Issues in the Juvenile System and the Need for
a Mental Health Facility for Girls**
—Phyllis Subin, Chair, Gender Equity Subcommittee, Juvenile
Justice Advisory Council
—George E. Davis, M.D., Psychiatric Medical Director, Juvenile
Justice Services, CYFD; Division Director, Child and
Adolescent Psychiatry, UNM Medical School
—Ken Martinez, Psy.D., Director, Children's Behavioral Health,
CYFD
- 3:00 p.m. **Local Juvenile Justice Continuum Programs: Coordination,
Community Impact and Sustainability**
—The Honorable Barbara J. Vigil, First Judicial District Court
Judge
—Douglas Mitchell, Coordinator, Juvenile Detention Alternatives

Initiative
—David Schmidt, Director, NM Council on Crime and
Delinquency
—Mary Lynne Newell, Sixth Judicial District Attorney
—Jack Ortega
—Mary Louise Romero
—Suzanne Leonelli

4:30 p.m.

Tour of Camp Sierra Blanca

Recess

Tuesday, August 23

9:00 a.m.

Domestic Violence: Update, Process and Programs

—The Honorable Angela J. Jewell, Second Judicial District Court
Judge
—Rosemary Cosgrove-Aguilar, Domestic Violence Special
Commissioner
—Sandra Gardner, Domestic Violence Coordinator for the
Governor
—Agnes Maldonado, NM Coalition Against Domestic Violence

10:30 a.m.

Trends in Crime Victim Rights

—Tammi Lambert, Director, Governor's Office of Victim
Advocacy

11:00 a.m.

Public Comment

Other Business

Tour of Fort Stanton Residential Treatment Center

Adjourn

Revised: September 16, 2005

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**September 21-22, 2005
NMSU Golf Course Club House
3000 Champions Drive
Las Cruces**

Wednesday, September 21

- 10:00 a.m. **Call to Order**
—Representative Joseph Cervantes and Senator Cisco McSorley,
Co-Chairs
- 10:05 a.m. **Approval of Minutes**
- 10:10 a.m. **Welcoming Remarks**
—William Flores, Provost, New Mexico State University
- 10:15 a.m. **DWI: Statistical Trends, Agency Programs, Problems and
Recommendations**
—Rachel O'Conner, DWI Coordinator for the Governor
—Michael Sandoval, Traffic Safety Bureau, Department of Transportation
- Ignition Interlock Demonstration**
—Sean Parnes, Adobe Interlock
- 11:20 a.m. **Tracking DWI Offenders in the Motor Vehicle Division: Current
Process and Improvements**
—Kenneth Ortiz, Director, Motor Vehicle Division, Taxation and
Revenue Department
- 12:00 noon **Lunch**
- 1:30 p.m. **Mental Health Issues in the Criminal Justice System**
—Peter Cubra, Former Managing Attorney, Protection and Advocacy
System
—Bianca Martinez, Ph.D., Mental Health Services Bureau Chief, New
Mexico Corrections Department
—Ron Gurley, Advocate for the Mentally Ill

2:45 p.m. **Interim Report on the Doña Ana County Court Consolidation Study**
—The Honorable Robert E. Robles, Chief Judge, Third Judicial
 District Court

3:15 p.m. **Overview of Substance Abuse Issues in New Mexico**
—Herman Silva, Substance Abuse Coordinator for the Governor

4:15 p.m. **Public Comment**

Tour of John Paul Taylor Center

Recess

Thursday, September 22

9:00 a.m. **Funding for the Criminal Justice System and Update on Judicial
Compensation**
—The Honorable Richard C. Bosson, Chief Justice, New Mexico
 Supreme Court
—Gina Maestas, Director, Administrative Office of the Courts

9:45 a.m. **Water Adjudication Process: Development of Court Rules**
—The Honorable Jerald A. Valentine, Third Judicial District Court Judge

10:30 a.m. **Sunshine Laws, the First Amendment and the Press**
—Jim Lawitz, Editor, Las Cruces Sun News
—Kent Walz, Editor, Albuquerque Journal
—James M. Dines, Attorney, Dines & Gross
—Robert Johnson, Director, Foundation for Open Government
—Frank Thayer, Journalism and Mass Communications Department
 Head, NMSU

11:30 a.m. **Residence Requirements for Law Enforcement Officers**
—Jaime Chavez, Chief of Police, NMSU
—Charles Franco, Undersheriff, Doña Ana County
—Harry Romero, Chief of Police, City of Las Cruces
—Charles Anderson, Chief of Police, Sunland Park

12:00 noon **Public Comment**

Adjourn

3:30 p.m. **Fee Increases for the Department of Public Safety**
—Roxanne Knight, Deputy Secretary of Administration
—Paul Cook, Division Director, Public Safety Support Program

4:00 p.m. **Executive Session: Update on Legal Issues**

Recess

Tuesday, October 25

9:00 a.m. **Report from the Judiciary: Unified Budget and Legislative Initiatives**
—The Honorable James J. Wechsler, Judge, New Mexico Court of
Appeals
—Gina Maestas, Director, Administrative Office of the Courts

11:00 a.m. **Surface Landowner Protection for Oil and Gas Operations**
—Bill Humphries, Former NM Land Commissioner
—Doug Meiklejohn, Executive Director, NM Environmental Law Center

Public Comment

Adjourn

3:30 p.m. **Appropriation for Law School Loan Assistance Repayment Program (Bill Draft #5)**
—Kim Posich, Executive Director, Center on Law and Poverty

3:45 p.m. **Funding Requests for IT Systems for Bernalillo County and for the Albuquerque Police Department**
—Senator John C. Ryan
—Barri Roberts, Director, Metropolitan Criminal Justice Coordinating Council
—Ray Schultz, Albuquerque Police Chief

Public Comment

Recess

Tuesday, November 29

9:00 a.m. **Dona Ana County Court Consolidation Study: Final Report (Bill Draft #1)**
—Gina Maestas, Director, Administrative Office of the Courts

9:45 a.m. **Response to Committee Request for Gender-Specific Criteria in the Operation of the Camino Nuevo Facility**
—Joe R. Williams, Secretary, New Mexico Corrections Department (NMCD)

Corrections Department Budget Request for FY 2007
—Renada Peery, Fiscal Analyst, Legislative Finance Committee (LFC)
—Joe R. Williams, Secretary, NMCD
—Jolene M. Gonzales, Deputy Secretary of Administration, NMCD

11:40 a.m. **Judiciary Budget Highlights**
—Erin McSherry, Fiscal Analyst, LFC

12:00 noon **Meritorious Deductions Earned by Inmates in Fiscal Year 2005 and Impact of Proposed Changes (Bill Draft #15)**
—Paul Guerin, Ph.D., Research Scientist, NM Sentencing Commission

12:30 p.m. **Consideration of Legislative Proposals Generated During the Interim**
—Committee Members

Public Comment

Adjourn

Minutes

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

**June 9, 2005
State Capitol, Room 322
Santa Fe**

The first meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order by Representative Joseph Cervantes, co-chair, and Senator Cisco McSorley, co-chair, on Thursday, June 9, 2005, at 10:25 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Joseph Cervantes, Co-chair
Sen. Cisco McSorley, Co-chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Gail C. Beam
Sen. Carroll H. Leavell
Sen. Richard C. Martinez
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Rep. Peter Wirth
Rep. Eric A. Youngberg

Advisory Members

Sen. Ben D. Altamirano
Rep. Hector H. Balderas
Rep. W. Ken Martinez
Rep. Greg Payne
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart

Absent

Rep. Al Park
Sen. Leonard Tsosie

Sen. Kent L. Cravens
Sen. Mary Jane M. Garcia
Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Sen. Gerald Ortiz y Pino
Sen. William H. Payne
Sen. Michael S. Sanchez
Rep. Thomas E. Swisstack
Sen. James G. Taylor

Staff

Maha Khoury
Evan Blackstone
Jennie Lusk
Liz Holmes

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Development of Work Plan and Meeting Schedule for the 2005 Interim

Representative Joseph Cervantes, co-chair, and Senator Cisco McSorley, co-chair, welcomed committee members and guests. Committee staff reviewed the proposed work plan and schedule with the committee. Committee members discussed potential conflicts in their schedules and the need to change meeting locations and times. The committee discussed changing the July meeting location from Taos to Springer. Second, it was suggested by Representative Cervantes that the August meeting, at Camp Sierra Blanca, be moved up a week from August 30 and 31 to August 22 and 23. The committee directed staff to review the calendar and member conflicts to determine if these changes are worthwhile and requested the co-chairs to make a final decision. The committee will be informed of any changes as soon as they are finalized. The committee did agree to meet on September 21 and 22 in Las Cruces, and October 17 and 18 and November 28 and 29 in Santa Fe. The proposed work plan, meeting schedule and budget will be presented to the Legislative Council at its June 29, 2005 meeting.

Representative Cervantes and Senator McSorley asked committee members for their input on additional agenda items to be addressed during the 2005 interim. Following the committee members suggestions, the co-chairs asked audience members to introduce themselves and state the organizations they represent. The audience was also asked to share with the committee members agenda items they wished the committee to address.

Adjournment

Representative Cervantes and Senator McSorley adjourned the meeting at 12:25 p.m.

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

**July 18, 2005
United World College, Auditorium
Montezuma**

**July 19, 2005
New Mexico Boys' School
Springer**

The second meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order by Representative Joseph Cervantes, co-chair, and Senator Cisco McSorley, co-chair, on Monday, July 18, 2005, at 10:15 a.m. at the United World College Auditorium in Montezuma.

PRESENT

Rep. Joseph Cervantes, Co-chair (July 18)
Sen. Cisco McSorley, Co-chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Gail C. Beam
Sen. Richard C. Martinez
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder (July 18)
Sen. Leonard Tsosie (July 19)
Rep. Peter Wirth

ABSENT

Sen. Carroll H. Leavell
Rep. Al Park
Rep. Eric A. Youngberg

Advisory Members

Rep. Hector H. Balderas
Sen. Mary Jane M. Garcia
Sen. Gay G. Kernan
Rep. W. Ken Martinez
Rep. Jane E. Powdrell-Culbert (July 18)
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart

Sen. Ben D. Altamirano
Sen. Kent L. Cravens
Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gerald Ortiz y Pino
Rep. Greg Payne
Sen. William H. Payne
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Thomas E. Swisstack
Sen. James G. Taylor

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

Staff

Maha Khoury
Evan Blackstone
Liz Holmes

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Monday, July 18**Call to Order**

Representative Joseph Cervantes, co-chair, and Senator Cisco McSorley, co-chair, welcomed committee members and guests.

City of Albuquerque's DWI Ordinance

Stan Harada, assistant attorney for the city of Albuquerque, Peter Pierotti and James Davis, director of the Division of Government Research at the University of New Mexico (UNM), reviewed a recently amended version of Albuquerque's DWI ordinance that allows the city to seize and forfeit the vehicles of persons arrested on DWI charges. Currently, the city has delayed enforcing the ordinance due to a pending lawsuit filed against the city by the American Civil Liberties Union (ACLU) of New Mexico. In the meantime, the city is continuing to operate under the old ordinance, that allows seizure and forfeiture of vehicles of persons who have one prior DWI conviction or a license that has been revoked for DWI. Under both the current and amended ordinance a vehicle is considered a nuisance and subject to seizure and forfeiture. Mr. Harada and Mr. Pierotti also explained the revenues, costs, procedures and initiatives of the city's DWI vehicle seizure and forfeiture program. The city collected \$700,000 last year from vehicle seizures. Some of the revenue generated by the ordinance goes to DWI enforcement, education and prevention programs. The Albuquerque Police Department uses some of the revenue from the program to outfit and upgrade its equipment. Mr. Davis said research and the compilation of information on the ordinance is still in progress and indicates a likelihood that there would be a decline of DWI recidivism.

Charles E. Knoblauch and Bill T. Tinker, DWI defense attorneys, and George Bach, staff attorney for the ACLU, discussed with the committee the legal problems posed by the city's amended DWI ordinance. The attorneys argued that the ordinance violates the constitutional right of proper notice by not providing for constructive notice to the owner of a vehicle. In addition, the ordinance reverses the presumption of innocence by seizing property without a conviction and its hearing procedures limit access to representation by an attorney. Mr. Bach asserted that the city is trying to rewrite criminal law by using nuisance and abatement laws. Mr. Knoblauch, Mr. Tinker and Mr. Bach all argued that the ordinance unfairly impacts families and poor people.

DWI Statistical Trends and Program Highlights

Rachel O'Conner, DWI coordinator for the governor, briefed the committee members on DWI statistical trends and program highlights taking place in New Mexico. Ms. O'Conner said the state continues to make progress in the area of DWI and is working to develop indicators to

measure success. The state is also in the process of reviewing DWI rules developed by state agencies. Ms. O'Conner reviewed various indicators for the committee that include alcohol-involved crashes and alcohol fatality rates per vehicle mile. DWI program highlights in New Mexico continue to focus on promoting public awareness, reducing alcohol sales to intoxicated persons and minors and improving education and technology.

FY 2004 State Inmate Population

Paul Guerin, Ph.D., of the New Mexico Sentencing Commission (NMSC) provided an overview of a preliminary analysis of state inmates. Dr. Guerin briefly reviewed data provided to NMSC by the New Mexico Corrections Department (NMCD).

Report from the NMCD

Secretary Joe Williams, Deputy Secretary Jolene Gonzales and Deputy Secretary Erma Sedillo, all of NMCD, discussed various issues currently facing NMCD. Secretary Williams began by briefing the committee on the different programs NMCD provides to its inmates. The programs range from educational, mental health and addiction services to faith-based, corrections industries and probation and parole supervision.

Secretary Williams discussed factors affecting the department's budget. NMCD's budget has remained flat and NMCD will need an increased budget in fiscal year 2007 to deal with projected inmate growth. Other factors that affect the budget include retirement plans for correctional officers, who can now retire in 20 years, the rate of growth in the Adult Probation and Parole Division and the need for supplemental funding in fiscal year 2006.

Secretary Williams said a critical issue facing the department is the need for additional bed space to accommodate inmate population growth. Several bills passed the legislature and were signed by the governor that affect good time, DWI offenders and sex offenders. These laws contribute to the need for more bed space because inmates are serving longer sentences. In response, NMCD is developing initiatives to control population growth. These initiatives include assisting in-house parolees in finding suitable parole plans; awarding good time to medical care cases; ensuring good time is awarded; increasing the number of programs where inmates receive good time credit; utilizing new female inmate classification instruments; assessing the feasibility of reentry to drug courts; creating a sanction parole violator program; studying the return rate of inmates; discharge planning; and targeting probation violators.

Secretary Williams also discussed the early release programs already codified in law that are intended to relieve overcrowded correctional facilities. Currently, the programs are not being utilized by NMCD. These are intensive supervision, community corrections and the reentry drug court. The Population Control Commission has also not been utilized.

Secretary Williams provided the committee with information on the need for additional bed space as well as options to address this need. Options include adding beds and expanding existing public and private facilities or constructing a new facility in Union County for male inmates. To address the needs for female inmates, options include opening Camino Nuevo in Albuquerque, formerly a juvenile facility, as an overflow facility to the New Mexico Women's Correctional Facility.

Mike Running, Clayton city manager, joined Secretary Williams to discuss the proposed plan for construction of a new correctional facility in northeastern New Mexico. Mr. Running told the committee that a northeastern New Mexico correctional facility would bolster economic development in Clayton by creating jobs, providing career possibilities and increasing the community's declining population. Mr. Running added that in addition to the governor, the community is in support of the proposal. He stated that the required infrastructure exists to support the facility such as a full-service hospital, operable wells and 1,700 acres of farmland.

Representative Jose A. Campos shared with the committee his experience in Guadalupe County and the advantages and disadvantages of a private correctional facility in the community.

Private Prison Contracts and Costs

Renada Perry, a Legislative Finance Committee (LFC) analyst, summarized an LFC hearing brief that focused on NMCD's plan to house over 600 state inmates in Union County. Ms. Perry compared estimated costs of various locations for the facility and discussed demographics and other relevant data that indicates that Clayton is not the most cost-effective location for the facility. Ms. Perry stated that the methodology used by NMCD to select Clayton as the site for the facility is unclear.

Youth in Drug Court Program

Garrett Alvey and Ashley Russell, both graduates of the youth in drug court program, spoke to the committee about their personal experiences with substance abuse and the positive impact youth drug court has had on their lives and futures.

Tuesday, July 19

Tour and Briefing on the New Mexico Boys' School (NMBS)

The committee received a briefing on the NMBS from William Gregoricus and Ed Abreu. Staff of the NMBS led committee members, staff and guests on tours of the facility.

Adjournment

Senator McSorley adjourned the meeting at 12:00 noon.

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

**August 22-23, 2005
Fort Stanton Residential Treatment Center
Fort Stanton, NM**

The third meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order on Monday, August 22, 2005, at the Fort Stanton Residential Treatment Center in Fort Stanton.

PRESENT

Rep. Joseph Cervantes, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Sen. Carroll H. Leavell
Sen. Richard C. Martinez
Rep. Al Park
Rep. Peter Wirth

ABSENT

Rep. Thomas A. Anderson
Rep. Gail C. Beam
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Advisory Members

Sen. Gay G. Kernan
Sen. John C. Ryan
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart (August 23)
Rep. Thomas E. Swisstack (August 22)

Sen. Ben D. Altamirano
Rep. Hector H. Balderas
Sen. Kent L. Cravens
Sen. Mary Jane M. Garcia
Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Rep. W. Ken Martinez
Sen. Gerald Ortiz y Pino
Rep. Greg Payne
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Sen. Michael S. Sanchez
Sen. James G. Taylor

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

Staff

Maha Khoury
Evan Blackstone
Jennie Lusk
Larry Matlock

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Monday, August 22

Representative Cervantes, co-chair, and Senator McSorley, co-chair, welcomed committee members and guests and called the meeting to order at 10:07 a.m.

Children, Youth and Families Department (CYFD)

Secretary Mary-Dale Bolson presented her report to the committee, responding to requests for an update on the department's work in several areas. The department has signed a new joint powers agreement with the Corrections Department and will be closing the segregation unit at the boys' school. She noted that some juvenile residents 18 to 21 years old pose distinct challenges and that the system needs to change to handle them and address their needs. Detention reform has become statewide, with employees now operating in the community rather than being facility-based. Serious mental health problems are now referred to behavioral health facilities rather than to juvenile justice facilities. A restorative justice initiative that was started in Taos with the Native American community is expanding, and Albuquerque High may soon have its own restorative justice program. Also, the Juvenile Justice Advisory Council (JJAC) has been working with the New Mexico Sentencing Commission on gender issues within the juvenile justice system. She noted that over 65 percent of residents in CYFD facilities have been either a victim or an offender in a domestic violence incident.

Dave Schmidt, executive director of the New Mexico Council on Crime and Delinquency, reported on six bills that passed in the most recent session affecting children. The law now permits children 14 years old and older to have an attorney represent their own wishes, while leaving the judge to decide on the overall best interests of the child. New Mexico law now complies with the federal Indian Child Welfare Act. Aggravated battery has been added as an offense for which a child may be sentenced as an adult. Further, there is now a mandatory period of parole for juvenile offenders.

The secretary discussed changes in facilities for juveniles moved to CYFD, as well as programming changes. She noted that the punitive model that may be effective for adults is not working for young people. At this point, CYFD staff is receiving training to redirect its efforts toward a rehabilitative model. The department is seeking American Corrections Association (ACA) accreditation, though there is a question of whether such accreditation is necessary or appropriate. The department is asking staff to become more proactive, using a case manager model, and working with the Department of Public Safety on gang initiatives. The secretary also addressed domestic violence issues and noted that the cycle of domestic violence is difficult to break. She discussed funds available to treat the offender and the family.

During questions and comments from committee members, the committee requested a briefing on other guardian ad litem reforms. The secretary was asked to provide statistics on the percentage of African-American residents in CYFD facilities. Legislators also asked about a range of other issues, including vocational programs at CYFD facilities, effective truancy approaches, over-medication, the differences between community service officers and juvenile justice probation and parole officers and separating victims from perpetrators of violence within small schools.

Tour of Fort Stanton

Committee members, staff and guests toured the Fort Stanton Residential Treatment Center.

Gender Equity in the Juvenile System and the Need for a Mental Health Facility for Girls

Phyllis Subin, chair of the JJAC Gender Equity Subcommittee, reported on the different needs and challenges of girls in the juvenile justice system. Girls are a fast-growing segment of the prison population, and the number of girls in the system has dramatically increased. Home fragmentation, violence, victimization within the juvenile justice system, serious physical and mental disorders, separation from family, school failure and early adolescent "breaking point" events plague girls in the juvenile justice system, even though most are incarcerated for nonviolent offenses. A conference on gender-specific issues will be held in Minneapolis from October 15 to 19 and the chair suggested that the dates of the October committee meeting be changed.

Ms. Subin reviewed specific programming recommendations and stated that girls are incarcerated primarily because of a lack of alternative programs. She said that data collection on the girls is needed, and that a steady funding stream will be essential to successful programming.

Dr. Davis reported on the psychiatric issues and challenges that girls face in the juvenile justice system. He and Dr. Martinez discussed the need for a female residential treatment center, somewhat like the Sequoyah program for boys.

Local Juvenile Justice Continuum Programs

Douglas Mitchell, coordinator of the Juvenile Detention Alternatives Initiative, reported that the vast majority of the youth helped through the initiative have not gone on to prison. Public safety is improved by eliminating delays in consequences, and most juveniles are now booked and released. The three interventions on which the initiative focuses are: a youth reporting center, a community mental health clinic and developing weekend programs.

Mary Lynne Newell, attorney, Sixth Judicial District, reported on programs in her district that monitor trancies to avoid having juveniles enter the system. Funding will be needed for the program to continue its work and to coordinate alternative programming with schools.

Mary Louise Romero, Jack Ortega and Judge Barbara Vigil, all of Santa Fe, reported on the intensive community monitoring program that has been in place the past six years. Judge Vigil reported that 10 communities in New Mexico, with funding from the federal government, have developed their own comprehensive strategies to address delinquencies. However, the federal funding will soon vanish, and state funding will be required if the local programs are to continue. Because each community has worked hard and well to develop its own indigenous program, Judge Vigil reported that the strategies that were developed are successful and more likely to succeed than programs that are not community-based. The national Office of Juvenile Justice Delinquency Programs was so impressed with the New Mexico communities' efforts that it gave an unsolicited contribution of \$10,000. Judge Vigil, along with Mr. Schmidt, urged the committee to replace federal funding and appropriate \$2 million to these community programs through the Regional Juvenile Services Act.

Senator McSorley indicated that he will draft a letter to the Legislative Finance Committee with signatures for all committee members for endorsement of funding for the community initiatives.

The committee recessed at 4:50 p.m.

Tuesday, August 22

Domestic Violence

Judge Angela Jewell reported to the committee on domestic violence coordination in the Second Judicial District. Rosemary Cosgrove, domestic violence commissioner, recommended the following statutory changes: making the Family Violence Protection Act neutral as to petitioner and respondent; removing references to women as victims; providing a good faith exception for errors made by law enforcement in enforcing orders that are facially valid and creating a law mirroring federal law that would make it unlawful for a person with a domestic violence order of protection against him or her to own a firearm.

Sandra Gardner, domestic violence coordinator for Governor Richardson, noted that funds for treatment of batterers have increased but requests for batterer programming exceeds the money available. She discussed a survey indicating that only one in seven domestic violence incidents is reported to law enforcement. New Mexico statutes include incidents between non-family members and siblings as domestic violence incidents, while most states do not include these members. She said service providers are seeing 25 percent increases in people seeking service. Finally, she reported that partner homicide has risen from 14 cases per year in 1992 to 36 in 2004. There is a need for specialized domestic violence presentations in all areas of the state, more treatment programs for incarcerated offenders, better security for magistrate judges and for resource coordinators.

Agnes Maldonado, New Mexico Coalition Against Domestic Violence, reported on the coalition's work throughout the state. She stated that there are currently 7,170 children in shelters. A puppet show called "Lifesavers" was presented, demonstrating to legislators the types of educational efforts being done to reach children who may be victims or whose family members may be victims. The coalition started with presentations in seven schools, but has now increased to 22 elementary schools.

Trends in Crime Victim Rights

Tammi Lambert, director of the Governor's Office of Victim Advocacy, presented a brochure on the work of her section, which addresses victim rights in the criminal justice context and victims of violent felonies. The victim rights movement covers domestic violence and drunk driving. A list of priorities is being compiled and currently includes notification of release of perpetrators; notification of all court hearings; pre-charging issues in homicide cases; funding issues on reparation and post-conviction issues. An ambiguity still exists as to when victim rights kick in, whether it is when a person is charged or convicted. Also, release from county detention facilities does not require victim notification.

Tour of Camp Sierra Blanca

Committee members and staff toured Camp Sierra Blanca.

Adjournment

The committee adjourned at 12:45 p.m.

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

**September 21-22, 2005
NMSU Golf Course Club House
Las Cruces**

The fourth meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order on Wednesday, September 21, 2005, at the NMSU Golf Course Club House in Las Cruces.

PRESENT

Rep. Joseph Cervantes, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Sen. Carroll H. Leavell
Sen. Richard C. Martinez
Rep. Al Park
Sen. Lidio G. Rainaldi
Rep. Eric A. Youngberg

ABSENT

Rep. Gail Chasey
Sen. H. Diane Snyder
Sen. Leonard Tsosie
Rep. Peter Wirth

Advisory Members

Rep. Hector H. Balderas (September 22)
Sen. Mary Jane M. Garcia
Rep. W. Ken Martinez
Rep. Mimi Stewart (September 21)
Sen. James G. Taylor

Sen. Ben D. Altamirano
Sen. Kent L. Cravens
Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Sen. Gerald Ortiz y Pino
Rep. Greg Payne
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Thomas E. Swisstack

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

Staff

Maha Khoury
Evan Blackstone
Raul Burciaga
Sarah Salazar

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Wednesday, September 21

Representative Cervantes, co-chair, and Senator McSorley, co-chair, welcomed committee members and guests and called the meeting to order at 10:25 a.m.

Dr. William Flores, provost, New Mexico State University (NMSU), welcomed the committee and thanked it for its continued support. He said that NMSU is moving forward with improvements throughout the university through state funding and bonds.

DWI: Statistical Trends, Agency Programs, Problems and Recommendations

Rachel O'Conner, DWI coordinator for the governor, and Michael Sandoval, Traffic Safety Bureau, briefed the committee on DWI statistical trends in New Mexico, program highlights and how the state is working on lowering DWI rates. Ms. O'Conner informed the committee that the number of alcohol-involved crashes is down nine percent from 2003 to 2004 and that there has been a rise in arrests by the state police. The number of alcohol-related fatalities did rise from 2003 to 2004; however, this was because there were crashes where multiple people in the same vehicle were killed.

Ms. O'Conner reviewed state agency programs that are involved in tackling the DWI problem. The traffic Safety Bureau of the Department of Transportation is the lead agency in these efforts. These programs include a five county project law enforcement program; a mobile strike unit that focuses on sales of liquor to intoxicated persons and minors; "superblitzes"; and the possibility of a liquor control task force whose primary goal is to look at ways to tighten regulations concerning selling to minors. She also discussed drunkbusters, a toll-free hotline to report drunk drivers that will be operational in October 2005. The bureau is involved in various public awareness programs, the courts are helping and the Alcohol and Gaming Division is getting involved.

Ms. O'Conner stated that the future holds better treatment options and that the governor is emphasizing the need for implementation of the San Juan model that would make treatment and jail time mandatory for second and subsequent DWI offenders. Ms. O'Conner informed the committee that the National Highway Transportation Safety Administration has declared New Mexico a national model on DWI legislation and will be reporting routinely to Congress. She concluded her presentation by discussing the latest improvements made to make the hearing process less burdensome on law enforcement officers.

Tracking DWI Offenders in the Motor Vehicle Division (MVD)

Ken Ortiz, director of the MVD, Taxation and Revenue Department, presented an overview of the administrative hearing process that takes place in the division when a person is arrested for DWI. He reviewed the procedural steps for license revocation and the time periods involved. He discussed the number of consent hearings held by his division, including those that were sustained or rescinded. Mr. Ortiz expressed his hopes to reach 100 percent compliance rates and stated that the MVD has signed a lease with the Bernalillo County Metropolitan Court with the aim of expediting the administrative hearing process. Mr. Ortiz also summarized the

recent statutory changes concerning driver's license revocations and ignition interlock licenses. As of September 13, 2005, the MVD has issued 5,412 ignition interlock licenses. He mentioned the MVD is working hard to make improvements in the process.

Ignition Interlock Demonstration

Sean Parnes from Adobe Interlock demonstrated to the committee how an ignition interlock device works. He claimed the device sold by his company is the most precise and accurate on the market.

Mental Health Issues in the Criminal Justice System

Peter Cubra discussed mental health issues in the state and emphasized that New Mexico is failing to provide adequate resources for psychiatric and mental health care. There are large numbers of incarcerated persons who are mentally ill. Mentally ill defendants many times remain incarcerated for up to three to four years before getting to trial. Mr. Cubra stated that existing law is not being implemented because funding for treatment guardians is not provided. The Developmental Disabilities Planning Council needs more resources for treatment guardians. Mentally ill people also require intensive case managers. Mr. Cubra suggested that Value Options provide outpatient services for the mentally ill. Mr. Cubra urged the passage of the pre-release benefits bill introduced last session by Representative Mimi Stewart.

Bianca Martinez, mental health services bureau chief, NM Corrections Department (NMCD), gave the committee an overview of the issues surrounding mental health in the nation and the state. She emphasized that the prison systems are not properly equipped to handle mentally ill inmates, and it costs a lot more money to care for inmates in prison than at state hospitals. Ms. Martinez explained the various bureaus within the NMCD and their functions. She continued by stating the number of prisoners currently receiving mental health treatment. She concluded her presentation by speaking about the Mental Health Treatment Center, built in 2003, that is at or above capacity and requires expansion.

Ron Gurley, advocate for the mentally ill, discussed the need to keep mentally ill patients out of prisons and the need for jail diversion programs for the mentally ill. Other concerns he raised were abolishing the guilty but insane verdicts; providing public defenders with more social workers; and establishing a blue ribbon task force to study the Mental Health Code.

During questions and comments from the committee, members expressed concern over these issues and stated that something needs to be done to meet the needs of mentally ill inmates, whether it be more treatment centers or more psychologists.

Interim Report on the Dona Ana County Court Consolidation Study

The Honorable Robert E. Robles, chief judge, Third Judicial District Court, updated the committee on the status of a study on the feasibility of creating a consolidated court system in Dona Ana County. As directed by a statute passed by the legislature in 2005, a consolidation study committee consisting of 15 members is currently examining Dona Ana County's court system and evaluating the viability of a metropolitan court system. The committee is considering this issue in the context of certain areas suggested by the chief justice of the New Mexico Supreme Court, which include the administrative structure of combined courts, employment and a facility. The study should be concluded in November or December and will be reported to this committee.

Overview of Substance Abuse Issues in New Mexico

Herman Silva, substance abuse coordinator for the governor, reported to the committee on current illegal drug problems in New Mexico, including drug overdose deaths, treatment, repeat offenders, arrest rates and drug seizures. He reported that the number of people dying from drug overdoses decreased between 2003 and 2004. According to Mr. Silva, there are 122 drug treatment facilities statewide, including both private entities and governmental agencies that provide services. He also reviewed how the drug courts and law enforcement agencies are handling the substance abuse issue in New Mexico.

Tour of John Paul Taylor Center

Committee members, staff and guests toured the John Paul Taylor Center.

The committee recessed at 4:35 p.m.

Thursday, September 22

Funding for the Criminal Justice System and Update on Judicial Compensation

The Honorable Richard C. Bosson, chief justice of the New Mexico Supreme Court, reported to the committee on the status of a study by the Criminal Justice Task Force on the New Mexico criminal justice system. The study will give detailed data on the need to address funding priorities of all three branches of the criminal justice system, the courts, the public defender and the district attorneys. Justice Bosson informed the committee that the task force has concluded that the criminal defense system and the Public Defender Department is where the most urgent needs exist. He stated that the legislature can most likely expect a significant proposal from the Public Defender Department in the upcoming session that may include funding for additional employees and increased funding for contract public defenders. Justice Bosson emphasized the need to safeguard the right to a fair trial since without this right the criminal justice system would unravel. He also summarized the progress of the Judicial Compensation Commission, its recently appointed members and its mission. He recognized Representative W. Ken Martinez and Senator Michael S. Sanchez for their contributions.

Water Adjudication Process: Development of Court Rules

The Honorable Jerald A. Valentine, Third Judicial District Court judge, informed the committee that New Mexico courts have no court rules that specifically address problems concerning the adjudication of stream waters in New Mexico. Currently there are five pending adjudications in New Mexico courts and stream water adjudications benefit those water users. At Judge Valentine's request, the Supreme Court established an ad hoc committee to study water litigation and stream adjudication in New Mexico. A judicial subcommittee has been appointed to draft proposed rules and then submit them for review to the ad hoc committee. Judge Valentine said that he believes the committee is nearing completion of a draft of stream system adjudication rules that he hopes will expedite stream adjudications.

Sunshine Laws, the First Amendment and the Press

James M. Dines, attorney, Dines and Gross, Jim Lawitz, editor, Las Cruces Sun News, Ken Walz, editor, Albuquerque Journal, Robert Johnson, director, Foundation for Open

Government, and Frank Thayer, Journalism and Mass Communications Department head, NMSU, discussed with the committee the topic of open government and the press.

Mr. Dines expressed his view to the committee that one of the fabrics that keep democracies together is transparency in government. Although many individuals in government are willing to be open, Mr. Dines stated that unfortunately there are many who also prefer secrecy. Issues such as rolling polls and executive privilege continue to create difficulties to public access. Mr. Dines informed the committee that over \$200,000 in taxpayer money has gone to attorney fees in cases where the government refused to allow public access to government documents and the courts ordered such access. Mr. Dines recommended stronger enforcement of the Open Meetings Act and criminal penalties for violations of the Inspection of Public Records Act.

During the question and comment period, committee members raised concerns about who determines what the public is allowed to know. They also questioned if there are adequate safeguards in New Mexico to protect journalists from going to jail.

Residence Requirements for Law Enforcement Officers

Jaime Chavez, NMSU chief of police, and Charles Franco, undersheriff of Dona Ana County, urged the committee to support statutory changes to the requirements that peace officers be New Mexico citizens and deputy sheriffs be qualified to vote in New Mexico. They told the committee that the residency requirements are archaic and put a burden on departments pursuing manpower near New Mexico's border with Texas. Texas does not have the same requirement and Texas departments are recruiting New Mexico residents.

Public Comment

Members of the public spoke on the lack of funding for public defender contracts and the need to repeal residence requirements for law enforcement officers.

Adjournment

The committee adjourned at 1:00 p.m.

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

**October 24-25, 2005
State Capitol, Room 311
Santa Fe**

The fifth meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order on Monday, October 24, 2005, in Room 311 of the State Capitol in Santa Fe.

PRESENT

Rep. Joseph Cervantes, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Gail Chasey (10/24)
Sen. Richard C. Martinez
Sen. Lidio G. Rainaldi
Rep. Peter Wirth
Rep. Eric A. Youngberg

ABSENT

Sen. Carroll H. Leavell
Rep. Al Park
Sen. H. Diane Snyder
Sen. Leonard Tsosie

Advisory Members

Rep. Hector H. Balderas
Sen. Mary Jane M. Garcia
Rep. W. Ken Martinez
Rep. Greg Payne
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Sen. Michael S. Sanchez (10/24)
Rep. Sheryl Williams Stapleton (10/24)
Rep. Mimi Stewart
Sen. James G. Taylor

Sen. Ben D. Altamirano
Sen. Kent L. Cravens
Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Sen. Gerald Ortiz y Pino
Sen. William H. Payne
Rep. Thomas E. Swisstack

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

Staff

Maha Khoury
Evan Blackstone
Sarah Salazar

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Monday October 24, 2005

Senator McSorley, co-chair, welcomed committee members and guests and called the meeting to order at 10:20 a.m.

New Mexico Sentencing Commission: Data Report and Other Projects

Michael Hall, executive director of the New Mexico Sentencing Commission (NMSC), gave an overview of the commission, its membership and its meeting schedule.

John Bigelow, chair of the Sentencing Reform Committee (SRC), summarized the recent work of the SRC. He stated that the long-term goal of the committee is to report to NMSC on sentencing in New Mexico and what aspects should be changed. He informed the members that the SRC supports reforms in equitable theft and that all sentencing reforms in New Mexico need an education component.

Randall Cherry, NMSC, gave a brief overview of the Sex Offender Management Board (SOMB). He said there are 1,882 registered sex offenders in the state, 1,512 are listed on the web site and 698 are in prisons throughout the state. Mr. Cherry stated that not all sex offenders will receive treatment before they get out of prison. The SOMB is currently looking for ways to treat the sex offenders before they are released. Mr. Cherry also summarized the history of the SOMB and the recommendations made by SOMB to the legislature in the last legislative session. He went on to review the proposed changes the SOMB will be presenting to the legislature in 2006.

Mr. Hall next described the work of the Data Committee, which has worked for two years on mechanisms to collect data from the Department of Public Safety (DPS), the Corrections Department, the Public Defender Department and the district attorneys. He informed members that the Data Committee is building the ability to access and analyze that data. The data is used to guide the commission on policymaking decisions.

Tony Ortiz, deputy director of the NMSC, presented on behalf of the Juvenile Committee. He explained that currently there is one facility made available to juvenile males to receive treatment for very severe psychiatric problems and that efforts are underway to develop a facility for females within the next year. Mr. Ortiz also briefed members on the recent work of the Legislative Committee. The Legislative Committee serves as a vehicle for the NMSC to review and determine the NMSC's position on legislation during the legislative session.

Other Committee Business

On motion duly made, seconded and adopted without objection, the committee approved the minutes for the fourth meeting of the Courts, Corrections and Justice Committee.

Recidivism Among Female Offenders, Programs for Women and the Camino Nuevo Facility

Diane Wood, administrator, New Mexico Women's Justice Project (WJP), and Angie Vachio, vice president, WJP, briefed the committee on the recidivism rates and programs for female offenders, current projects by the WJP and the status of the Camino Nuevo facility. Ms. Wood gave an overview of the WJP and its current activities. She informed the committee that WJP is developing a discharge packet that would have beneficial information for women on

convicted felon voting rights. Ms. Vachio explained to the committee that women's pathways in and out of crime are much different than men's pathways, and there is a need to develop a safety net for women in the criminal justice system using gender-specific guiding principles. She stated that there is a great need for a facility that treats girls with severe mental illness as well as gender-specific programming in communities.

Ms. Vachio presented the WJP's legislative requests, which include funding for family visitation for Grants and Camino Nuevo clients, job training and programs for those clients through the Commission on the Status of Women as well as other funding and policy recommendations.

On motion duly made, seconded and adopted without objection, the committee voted to send a letter to Secretary of Corrections Williams, and to copy the Legislative Council and Legislative Finance Committee, on whether gender-sensitive guidelines are in the contracting process for the operation of the Camino Nuevo facility.

Funding for the Public Defender and for Public Defender Contracts

Mark Donatelli, chair of the New Mexico Criminal Defense Lawyers Association's (NMCDLA) Legislative Committee, and Roger Bargas, co-chair of NMCDLA's Indigent Defense Committee, discussed problems concerning inadequate funding for public defender attorneys and contract attorneys in death penalty and non-death penalty cases. Mr. Donatelli stated that the indigent defense system in New Mexico is underfunded and overburdened. This lack of resources causes contract counsel and public defenders to accept more cases than they can competently handle, disproportionately hurts poor people and results in increased periods of pre-trial and pre-sentence jail confinement at great cost to local governments. He also argued that the legislature must appropriate funds to the New Mexico Public Defender Department to fulfill the constitutional obligation of the state to provide representation for persons facing the death penalty, who cannot be represented by the department, by replacing the current flat-fee system with hourly rate compensation. Mr. Donatelli informed the committee that the NMCDLA is presenting legislative proposals for additional full-time employees needed to staff public defender offices and increased funding for contract attorneys.

Mr. Bargas summarized the work of the New Mexico Supreme Court Criminal Justice Task Force that was assembled over a year ago to examine problems in the criminal justice system. One area the committee studied was the funding formulas for public defenders and the national standards for caseloads. Based on the task force's findings, the New Mexico Public Defender Department needs an appropriation from the legislature of \$3.7 million for additional attorneys, paralegals and investigators to bring the department up to minimum national standards. Furthermore, Mr. Bargas pointed out that the task force also looked at the minimum caseloads, amount of hours and the hourly rates of public defender contract attorneys. He stated that the pay for contract attorneys is unrealistically low and an appropriation of \$11.5 million must be added to the budget for contract attorneys that handle non-death penalty cases to comply with national workload and caseload standards and minimally reasonable fees.

Fee Increases for the Department of Public Safety

Roxanne Knight, deputy secretary of administration for DPS, and Paul Cook, division director, DPS Public Safety Support Program, presented a legislative proposal from DPS that allows the department to charge a fee for processing criminal history background checks. They stated that the DPS Law Enforcement Records Bureau (LERB) has not received an additional full-time employee or a budget increase since 1988. The LERB currently has a large backlog of criminal arrest fingerprint cards, mug shot photographs to be filed and scanned and offense incident reports to be filed. Ms. Knight and Mr. Cook requested that the committee support the legislation charging a fee so that the LERB would be adequately funded.

Executive Session: Update on Legal Issues

The committee entered executive session to receive an update on legal issues.

Tuesday, October 25

Report from the Judiciary: Unified Budget and Legislative Initiatives

The Honorable James J. Wechsler, chair of the Judiciary Budget Committee, said the Chief Judges Council has agreed on a uniform approach to budgeting. The Judicial Salary Commission will make recommendations at the end of the year and report in December on those recommendations. Judge Wechsler reviewed the court's budget priorities, which include increasing salaries to make it more competitive, covering shortfalls in jury, witness and other funds, providing state funding to replace federal funds used to establish the state's drug courts, funding children's mediation and advocacy programs, and creating new staff positions and new judgeships.

Gina Maestas, director of the Administrative Office of the Courts (AOC), reported on related legislative topics. Rules are being promulgated to implement issues that were raised regarding the guardian ad litem statutes. As required by Senate Joint Memorial 22, the AOC reported to the committee about progress made in discussions between the New Mexico Association of Counties, District Attorneys Association and AOC on clarifying the obligations of the counties to provide "adequate quarters" and "necessary utilities and maintenance services" to district attorneys and courts. Ms. Maestas also reviewed AOC's funding requests with the committee.

Judge Richard J. Knowles, court administrator for the Second Judicial District Court, reported on its alternative court programs — among them the mental health, truancy, domestic violence and drug courts. On questioning from committee members, the judge discussed funding problems, the feasibility of locating a mental health court in Las Cruces and evaluations of client success. Mark Saavedra, administrator of the Bernalillo County Metropolitan Court, and Weldon Neff, administrator of the Eleventh Judicial District Court, also requested funding for programs.

Surface Landowner Protection for Oil and Gas Operations

Bill Humphries, former state land commissioner and past president of the New Mexico Cattlegrowers Association, and Doug Meiklejohn, executive director of the New Mexico Environmental Law Center, presented the committee with conflicts among landowners, developers and those who hold mineral rights to lands. The two represent groups that will push for legislation next session to protect surface landowners in oil and gas operations by requiring

notice, agreement, arbitration and compensation for oil and gas operations. Other states that have such legislation include Oklahoma, Wyoming, Montana and North Dakota. Bob Gallagher, president of the New Mexico Oil and Gas Association, spoke against the proposed measure, noting that his association has attempted to find common ground with the cattle ranchers and others. The Oil and Gas Association is seeking a consensus bill requiring notification, access and compensation, but that does not include a 180-day waiting period for arbitration. Others in the audience spoke for and against the proposal.

Adjournment

The committee adjourned at 12:10 p.m.

(not approved)

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

**November 28-29, 2005
State Capitol, Room 307
Santa Fe**

The sixth meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order on Monday, November 28, 2005, in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Joseph Cervantes, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Sen. Richard C. Martinez
Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Rep. Peter Wirth
Rep. Eric A. Youngberg (11/29)

Absent

Rep. Gail Chasey
Sen. Carroll H. Leavell
Sen. Leonard Tsosie

Advisory Members

Sen. Ben D. Altamirano
Rep. Hector H. Balderas
Sen. Kent L. Cravens (11/28)
Sen. Mary Jane M. Garcia
Rep. W. Ken Martinez (11/28)
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Sen. Michael S. Sanchez (11/28)
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Thomas E. Swisstack
Sen. James G. Taylor

Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Sen. Gerald Ortiz y Pino
Rep. Greg Payne
Sen. William H. Payne

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

Staff

Maha Khoury
Evan Blackstone
Jennie Lusk
Sarah Salazar

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Monday, November 28

Senator McSorley, co-chair, welcomed committee members and guests and called the meeting to order at 10:15 a.m.

Uniform Laws: Proposed Legislation

John P. Burton, uniform law commissioner, discussed the bill drafts he would like the committee to endorse. He gave a brief explanation of the bills and their effects. Mr. Burton discussed the Uniform Athlete Agents Act, Uniform Parentage Act, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, Uniform Revised Limited Partnership Act, Uniform Real Property Electronic Recording Act, Uniform Trust Code and Uniform Foreign-Country Money Judgments Recognition Act. He mentioned that some of the bills were favorably received in last year's legislative session, but time simply ran out.

The comments and concerns from the committee included whether or not these bills were going to be germane during the 2006 legislative session and why so many changes have to be made.

Committee Business

A motion was made and seconded and the minutes for the fifth meeting of the Courts, Corrections and Justice Committee were adopted.

Electronic Age Verification for Purchase of Alcohol

Senator Cravens, Gary Tomada, director, Alcohol and Gaming Division, Regulation and Licensing Department, and Christine Thomas, management analyst, DWI and Drug Czars, discussed their work pursuant to Senate Memorial 40, passed during the 2005 legislative session. The task force had four meetings during the interim and reported to the committee what it learned about underage drinking. Reuben Baca was also present to discuss what gas stations and convenience stores are doing to curb the problem. These businesses have started a program called "Responsible Retailers" that has proven to be successful. The presenters talked about different ways to give incentives to businesses who use an electronic age verification machine.

The committee agreed that it is important that something be done to curb underage drinking, and it discussed training for bartenders and cashiers and the responsibility of businesses when an employee sells to a minor.

Medical Marijuana

Daniel Abrahamson, director, Office of Legal Affairs, Drug Policy Alliance, and Reena Szczepanski, director, Drug Policy Alliance of New Mexico, discussed the effects of the U.S. Supreme Court case, *Raich*, on medical marijuana legislation. They explained the holding and rationale of the case and what it means if New Mexico were to pass a medical marijuana law, emphasizing that the case did not preclude the states from passing laws that regulate medical marijuana. The bill presented was similar to last year's bill with minor changes.

Questions and comments from the committee included concerns that such a measure would open the door for other illegal drugs, differences in marijuana and morphine, where and how the marijuana would be distributed and the marijuana patch.

DNA Samples for All Felony Arrests

Representative John A. Heaton, John Krebsbach, chair, DNA Oversight Committee, and Joanne and David Sepich all presented in support of a bill that would require DNA samples to be obtained from anyone arrested for a felony charge. The Sepichs spoke about how they lost their daughter in a brutal murder and how it might have been prevented had DNA samples been obtained earlier from the offender.

Questions and comments from the members included possible negative effects of such a bill and questions about federal and state databases and expungement. Various suggestions were made to amend the bill, such as requiring local governments to submit DNA samples from every sexual assault and requiring DNA samples from those convicted of a misdemeanor.

Create Crime of Escape from a Secure Residential Treatment Facility

Representative Martinez and Barri Roberts, director, Metropolitan Criminal Justice Coordinating Council, gave a brief presentation on this bill. They discussed how creating such a crime would encourage judges to commit offenders to treatment facilities because there would be sanctions if an offender escaped from the facility.

Appropriation for Law School Loan Assistance Repayment Program

Kim Posich, executive director, Center on Law and Poverty, discussed with the committee the need to fund the law that was passed last year. He requested that letters be sent from the committee to the Legislative Finance Committee (LFC) and to the governor in support of a recurring appropriation.

A motion was made and seconded that the committee write letters in support of such an appropriation and staff was directed to do so.

Funding Requests for IT Systems for Bernalillo County and for the Albuquerque Police Department

Senator Ryan, Barri Roberts and Ray Schultz, Albuquerque police chief, discussed the benefits and current funding of the contemplated information technology systems. These systems would be a huge benefit not only to the police officers on the streets, but to the courts and to administrative staffs. Among other things, the systems would help track officers for DWI cases brought before the Bernalillo County Metropolitan Court. Chief Schultz said the total cost for this system is \$11 million. They have pulled money from different places and are short \$3.5 million and are asking for the committee's support.

The committee recessed at 5:40 p.m.

Tuesday, November 29

Dona Ana County Court Consolidation Study: Final Report

Gina Maestas, director, Administrative Office of the Courts, presented the final outcome and report of the Court Consolidation Study Committee. She stated that the Court Consolidation Study Committee requests funding in order to obtain a step-by-step implementation plan for the contemplated metropolitan court in Dona Ana County. The consolidation would require 49 new positions and would cost the state millions of dollars. The committee members asked Ms. Maestas to discuss the advantages and disadvantages of this consolidation.

Response to Committee Request for Gender-Specific Criteria in the Operation of the Camino Nuevo Facility

Joe R. Williams, secretary, New Mexico Corrections Department (NMCD), gave an overview of the Camino Nuevo facility that will be opening for women inmates. He spoke about the capacity, populations, profiles of female offenders, staff training, policies and programming for females. Committee members raised concerns that the questions presented in the November 7 letter to Secretary Williams concerning gender-specific criteria in the request for proposals for the Camino Nuevo contract were not being addressed or answered in this presentation. Other committee concerns included mental health, profiles of offenders and the Peanut Butter and Jelly contract. The committee requested that the department consult with Mary Whittaker of the National Institute of Corrections regarding gender-specific criteria for women. The department has not done so, but stated it would consult with Ms. Whittaker.

Corrections Department Budget Request for FY 2007

Renada Peery, fiscal analyst, LFC, Secretary Williams and Jolene M. Gonzales, deputy secretary of administration, NMCD, highlighted some of the budget requests from the NMCD. The large budget request is due to the high inmate population that is projected to grow at an average rate of 2.9 percent from 2005-2016. The department's total request for all funding sources is 7.3 percent over FY06, plus a \$6.3 million general fund contingency to fund inmate population growth from FY06 to FY07.

Judiciary Budget Highlights

Erin McSherry, fiscal analyst, LFC, and Judge Wechsler, New Mexico Court of Appeals, discussed highlights of the judiciary budget for FY 2007.

Meritorious Deductions Earned by Inmates in FY 2005 and Impact of Proposed Changes

Paul Guerin, Ph.D., research scientist, New Mexico Sentencing Commission, presented his report on the meritorious deductions actually earned by prisoners in the preceding fiscal year. He also discussed the impact of the proposed earned meritorious deductions amendments on the availability of beds for inmates and on savings to the state.

Consideration of Legislative Proposals Generated During the Interim

The committee discussed and voted upon legislation that was proposed during the interim. The list of bills discussed and the actions taken by the committee are in the meeting folder and in the interim committee report.

Adjournment

The committee adjourned at 3:43 p.m.

Legislative Proposals

NEW MEXICO LEGISLATIVE COUNCIL SERVICE
411 State Capitol
Santa Fe, New Mexico 87501
(505) 986-4600
November 29, 2005

TO: Courts, Corrections and Justice Committee Members

FROM: Maha Khoury

SUBJECT: LEGISLATIVE PROPOSALS GENERATED IN THE 2005 INTERIM -
COMMITTEE ACTIONS

1. Appropriation to develop a transition plan for Dona Ana County Metropolitan Court. (Consolidation Study Committee) **Adopted**
2. Medical marijuana: Lynn Pierson Compassionate Use Act. (Drug Policy Alliance) **Adopted**
3. Require DNA samples from all felony arrestees. (Rep. John A. Heaton) **No Action**
4. Create the crime of escape from a secure residential treatment facility. (Rep. W. Ken Martinez) **Adopted**
5. Appropriation for public service law school loan repayment assistance. (Center on Law and Poverty) **Adopted**
6. Uniform Athlete Agents Act. (Uniform Law Commission) **Adopted**
7. Uniform Parentage Act. (Uniform Law Commission) **No Action**
8. Uniform Interstate Enforcement of Domestic Violence Protection Orders Act. (Uniform Law Commission) **No Action**
9. Uniform Revised Limited Partnership Act. (Uniform Law Commission) **Adopted**

10. Uniform Real Property Electronic Recording Act. (Uniform Law Commission)

Adopted

11. Uniform Trust Code amendments. (Uniform Law Commission) **Adopted**

12. Uniform Foreign Country Money Judgment Recognition Act. (Uniform Law Commission) **No Action**

13. Standardize criminal penalties for property crimes based on the monetary value of the property. (New Mexico Sentencing Commission) **Adopted**

14. Increase processing fees that may be imposed by district attorneys in worthless check cases. (New Mexico Sentencing Commission) **Adopted**

15. Changes to earned meritorious deductions for inmates. (New Mexico Sentencing Commission) **Adopted**

16. Increase contract attorney fees in death penalty cases. (New Mexico Criminal Defense Lawyers Association) **Adopted**

17. Increase contract attorney fees in non-death penalty cases and increase public defender staffing. (New Mexico Criminal Defense Lawyers Association) **Adopted**

18. Create the opiate replacement therapy for inmates, a two-year pilot project to be conducted at the women's correctional facility in Grants. (Women's Justice Project)

Adopted

19. Request the Children, Youth and Families Department to assemble a task force to study and make recommendations on the temporary guardianship of children of incarcerated parents. (Women's Justice Project) **Adopted**

20. Appropriation to the Corrections Department for family visitation and transportation programs at the Grants and Camino Nuevo facilities. (Women's Justice Project) **Adopted**

21. Appropriation to the Corrections Department for life skills and parenting skills programs at the Camino Nuevo facility. (Women's Justice Project) **Adopted**

22. Appropriation to the Commission on the Status of Women for job training and work release and for reentry, resource and referral services for Camino Nuevo clients. (Women's Justice Project) **Adopted**

23. Appropriation to the Commission on the Status of Women to develop best practices for gender-specific programming and curriculum and training for personnel serving incarcerated girls and women. (Women's Justice Project) **Adopted**

24. Appropriation to the University of New Mexico to provide trauma treatment for Camino Nuevo clients during and after incarceration. (Women's Justice Project) **Adopted**

25. Appropriation to the Second Judicial District Court for a restorative justice program for women. (Women's Justice Project) **Adopted**

26. Appropriation to the New Mexico Sentencing Commission to study best practices gender-specific probation and parole models and make recommendations on implementing best practices in New Mexico. (Women's Justice Project) **Adopted**

27. Allow the department of Public Safety to impose a fee for criminal history background checks. (Department of Public Safety) **Adopted**

28. Create new judgeships: six district court judges and a metropolitan court judge. (Judiciary) **Adopted**

29. Replace federal and grant funds for drug courts and expand and create new drug courts. (Judiciary) **Adopted**

30. Funding for children's programs in judicial districts statewide to replace federal funds, expand existing programs and create new programs. (Judiciary) **Adopted**

31. Appropriation to create a municipal court support division in the Administrative Office of the Courts. (Judiciary) **Adopted**

32. Appropriation to replace federal funds for truancy court. (Second Judicial District Court) **No Action**

33. Appropriation to replace federal funds for Violence Against Women Act of 2000 programs and services. (Second Judicial District Court) **Adopted**

34. Appropriation to replace Corrections Department staff, treatment programs and equipment for the adult drug courts. (Second and Eleventh Judicial District Courts) **Adopted**

35. Appropriation for additional staff for the adult mental health court program. (Second Judicial District Court) **Adopted**

36. Appropriation for family violence programs: say no to abusing power (SNAP) and empowerment of girls (PEG). (Second Judicial District Court) **Adopted**

37. Appropriation for staff and other costs for the family assessment intervention resources (FAIR) domestic violence program. (Second Judicial District Court) **Adopted**

38. Funding for staff and operating expenses for the pretrial services program currently funded by San Juan County. (Eleventh Judicial District) **Adopted**

39. Replace federal and other funds for the domestic violence repeat offender program. (Bernalillo County Metropolitan Court) **Adopted**

40. Protect surface landowners in oil and gas operations. (Oil and Gas Accountability Project) **No Action**
41. Eliminate residence requirements for law enforcement officers. (Dona Ana County Sheriff; Las Cruces Police Chief; New Mexico State University Police Chief; Sunland Park Police Chief) **Adopted**
42. Appropriation to regional juvenile services. (Local Juvenile Justice Continuum Programs) **Adopted**
43. Appropriation for domestic violence shelters and services for child victims of domestic violence. (New Mexico Coalition Against Domestic Violence) **Adopted**
44. Increase penalties for domestic violence offenders and require treatment. (Rep. Mimi Stewart) **No Action**
45. Increase judicial salaries. (Judicial Compensation Commission) **Adopted**
46. Increase the percentage of a metropolitan judge's salary from 90 to 95 percent of a district court judge. (Judicial Compensation Commission) **Adopted**