



New Mexico State Legislature
Courts, Corrections and Justice Committee

2011
INTERIM REPORT

Legislative Council Service
411 State Capitol
Santa Fe, NM

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**2011 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

The Courts, Corrections and Justice Committee was created by the New Mexico Legislative Council on May 9, 2011. Committee members are as follows:

Members

Rep. Al Park, Co-Chair
Sen. Peter Wirth, Co-Chair
Sen. Rod Adair
Rep. Joseph Cervantes
Rep. Gail Chasey
Rep. Zachary J. Cook
Rep. David L. Doyle
Sen. Mary Jane M. Garcia

Rep. Nate Gentry
Sen. Clinton D. Harden, Jr.
Sen. Linda M. Lopez
Rep. Antonio "Moe" Maestas
Sen. Richard C. Martinez
Rep. William "Bill" R. Rehm
Sen. John C. Ryan
Rep. Mimi Stewart

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Cathrynn N. Brown
Rep. Brian F. Egolf, Jr.
Rep. Dennis J. Kintigh
Sen. Carroll H. Leavell
Rep. W. Ken Martinez
Sen. Cisco McSorley

Rep. Bill B. O'Neill
Sen. William H. Payne
Sen. John Pinto
Sen. Sander Rue
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Sen. David Ulibarri
Rep. Richard D. Vigil

Work Plan

During the 2011 interim, and as time permits, the committee proposes to address the following and recommend appropriate legislation:

- (1) oversee and monitor issues relating to corrections, correctional facilities, private prisons, operations, solitary confinement, prison reform, reentry and rehabilitation;
- (2) review the operations of the judiciary and its projects, committees, specialty courts, budget and recommended legislation;
- (3) examine issues relating to judicial standards;
- (4) hear a presentation from the State Court Reengineering Commission;
- (5) examine issues relating to criminal justice and public safety, including criminal laws and procedures, public defenders, district attorneys and law enforcement issues;

(6) monitor juvenile justice issues and the implementation of the Cambiar model by the Children, Youth and Families Department;

(7) study state options to address immigration issues;

(8) review issues relating to good government, such as campaign disclosures, ethics, voting rights and voter registration;

(9) examine real estate issues, including real estate contracts and foreclosures;

(10) review legislative proposals by the Uniform Law Commission;

(11) review legislative proposals of the governor and the attorney general related to the work of this committee; and

(12) address related issues as appropriate.

2011 Approved Meeting Schedule

<u>Date</u>	<u>Location</u>
June 17	Santa Fe
July 14-15	Albuquerque
August 22-23	Grants
October 20-21	Santa Fe
November 14-15	Santa Fe

Summary of 2011 Interim

Courts, Corrections and Justice Committee 2011 Interim Summary

The interim began with a visit to two juvenile correctional facilities in Albuquerque, the Youth Diagnostic and Development Center and Camino Nuevo. The committee heard a presentation by the new administration at the Children, Youth and Families Department. Secretary of Children, Youth and Families Yolanda Berumen-Deines expressed the administration's commitment to Cambiar New Mexico and updated the members on the implementation and progress of Cambiar. The secretary and her staff explained their philosophy of juvenile justice and discussed how the programs provide a continuum of services from the time a youth enters the system until the youth reenters society. Members of the public also addressed the committee. The tours of both facilities and interaction with some of the juveniles living there further educated the committee and members of the public on the nature and progress of Cambiar New Mexico.

The committee held a hearing for several hours on the highly publicized action of Secretary of State Dianna J. Duran submitting 64,000 voter files to the Department Public Safety (DPS) for investigation. The meeting room was crowded with a large turnout from the public, county clerks, various organizations and legislators. Secretary Duran and her staff answered questions and discussed the reason for the investigation, namely, to verify the voter rolls for accuracy. Many expressed their concern with the secretary's action, the lack of transparency, the seemingly criminal investigation, the lack of authority to provide voter records to DPS and why the county clerks were not involved in the investigation. The secretary assured committee members and members of the public that the purpose of her action was simply to verify the accuracy and integrity of voter records in New Mexico. She reminded committee members that the purging of voter rolls had not been done for years and that the rolls needed to be updated in compliance with federal law. The secretary described the process of reviewing voter records and comparing them with records of the Motor Vehicle Division of the Taxation and Revenue Department and of the Social Security Administration. She assured everyone that her office has no authority to remove anyone from the voter files.

A two-day meeting was held on oversight of the Corrections Department and on getting to know the department's new secretary, Lupe Martinez. Issues discussed included private prisons, probation and parole, prison reform, medical services, reentry efforts, community corrections and the use of solitary confinement. The committee toured the New Mexico Women's Correctional Facility and Western New Mexico Correctional Facility while in Grants. Not long after the corrections meeting, Secretary Martinez resigned. Alfonso Solis was appointed acting secretary, and, thereafter, Gregg Marcantel was appointed the new secretary of corrections in November. The committee heard updates from both Acting Secretary Solis and Secretary Marcantel after their respective appointments.

The committee was fortunate to have James Austin, Ph.D., present and discuss his work on solitary confinement of prisoners, including how he helped set up the classification system in New Mexico. Dr. Austin described the types of segregation for prisoners, the conditions of confinement and multilevel, incentive-based systems that have clear benchmarks for inmates and

staff. The committee also heard a report by the Institute for Social Research, entitled "New Mexico's Transition from Prison to Community Initiative: A Gaps Analysis", which identified the strengths and gaps in reentry efforts in the state. The project was funded by federal Byrne grant funds and modeled after the national Transition from Prisons to Community Initiative. An innovative organization, Crossroads for Women, also described to the committee its success in reintegrating women into the community.

A full day in October was devoted to the judiciary. Among the highlights was a report from the New Mexico Reengineering Commission. This commission was created by the supreme court and, with help from the National Center for State Courts, conducted an extensive study on how to operate courts more effectively and efficiently. Surveys were taken and working groups formed. Ideas were explored and experts, non-experts and interested parties were consulted. The work of the commission was funded by grants, with no state funds expended. The commission had many recommendations, including information technology initiatives, electronic filing and case management systems, which are already being implemented in state courts. The committee saw an extensive demonstration of the Odyssey Case Management System during a working lunch. Other initiatives included traffic citation reform, merging limited jurisdiction courts on a voluntary basis, enhancing the use of alternative dispute resolution, improving services for self-represented civil litigants, providing for on-record appeals from magistrate courts and identifying best programs, practices and pilot projects to help with future reforms. The committee endorsed the legislation proposed by the judiciary to assist in creating these reforms.

Despite the innovation and creativity of the judiciary in finding solutions to the budget crisis, furloughs and partial court closures are anticipated if a \$5 million budget increase is not provided. The judiciary has been operating with an 11% vacancy rate and hopes to reduce that to 8% with the increase. Also requested were five additional judgeships, although there is a need for 30 statewide.

One of the greatest challenges facing law enforcement agencies and detention centers in New Mexico and across the nation is how to respond to people with mental health disorders. In many cases, law enforcement and detention facilities take the place of proper, ongoing treatment for those with mental illness. A task force was formed to develop humane and effective strategies to serve people with mental health disorders and reduce the number of those who are in detention or who require law enforcement intervention. The task force presented its recommendations to the committee. These recommendations include funding regional crisis triage sites, providing respite care services throughout the state as an alternative to incarceration, establishing training programs for family members, teachers, first responders and others, establishing a statewide call center and developing community coalitions. Implementation will require commitment, more work and resources, but if implemented, these services would ease the burden on, and free up, resources of law enforcement, the courts and corrections facilities.

Counties spend 30% to 40% of their resources on detention operations and have been searching for ways to reduce this burden for years. A task force that included representatives from the courts and other branches of the criminal justice system was formed to identify ways to

increase efficiency and reduce the number of arrestees and offenders housed in county facilities. The task force had short-, medium- and long-term recommendations that involve cooperation by the courts, district attorneys, public defenders and counties, as well as reforms and legislation. Some of the recommendations echo the changes being proposed by the judiciary, including studying how to decriminalize traffic cases.

The committee examined many other topics throughout the interim, including public financing of elections, disclosure of campaign contributions, consumer lending issues, mortgage foreclosures, theft of recycled metals, liability issues relating to Spaceport New Mexico and legislation proposed by the attorney general and others. Of the 23 bills presented and discussed, the committee endorsed 12.

Agendas

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

**June 17, 2011
Room 307, State Capitol
Santa Fe**

Friday, June 17

- 10:00 a.m. **Call to Order**
—Representative Al Park and Senator Peter Wirth, Co-Chairs
- 10:05 a.m. **Welcome and Introductions**
- 10:10 a.m. **Interim Committee Protocols**
—Raúl E. Burciaga, Director, Legislative Council Service
- 10:30 a.m. **Work Plan and Meeting Schedule for the 2011 Interim**
- 11:00 a.m. **Update on the Status of the Judiciary**
—Charles W. Daniels, Chief Justice, New Mexico Supreme Court

Public Comment

Adjourn

Revised: July 12, 2011

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

**July 14, 2011
Youth Diagnostic and Development Center Auditorium
4000 Edith Blvd. NE
Albuquerque**

**July 15, 2011
Children, Youth and Families Department
Protective Services Office
1031 Lambertson Place NE
Albuquerque**

Thursday, July 14

- 10:00 a.m. **Call to Order**
—Senator Peter Wirth and Representative Al Park, Co-Chairs
- 10:05 a.m. **Approval of Minutes**
- 10:10 a.m. **Update on Cambiar New Mexico: Juvenile Supervision, Facilities and Programming**
—Yolanda Berumen-Deines, Secretary of Children, Youth and Families
—Edna Reyes-Wilson, Ph.D., Deputy Secretary, Children, Youth and Families Department (CYFD)
—Pablo Sedillo III, Director, Juvenile Justice Services, CYFD
- 12:30 p.m. **Lunch**
- Tour of the Youth Diagnostic and Development Center**
- Tour of Camino Nuevo**
- 3:30 p.m. **Teen Court: Alternative Sentencing for Juveniles**
—Alice Sealey, Program Manager, Teen Court of Santa Fe County (TCSF)
—Jennifer Romero, Program Coordinator, TCSF

Public Comment

Recess

Friday, July 15

- 9:00 a.m. **Comparison of Voter Registration and Motor Vehicle Division Records**
—Dianna J. Duran, Secretary of State
—Thomas Dow, General Counsel, Office of the Secretary of State
—Bobbi Shearer, Director, Bureau of Elections, Office of the Secretary of State
- 10:00 a.m. **Elections: Reporting of Independent Expenditures (Bill Draft #1)**
—Steven Robert Allen, Executive Director, Common Cause New Mexico
—Josephine Porter, League of Women Voters of New Mexico
- 11:00 a.m. **Update on Public Financing of Elections (Bill Draft #2)**
—Steven Robert Allen, Executive Director, Common Cause New Mexico
—Josephine Porter, League of Women Voters of New Mexico

Public Comment

Adjourn

Revised: August 18, 2011

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

**August 22, 2011
New Mexico Women's Correctional Facility
1700 East Old Highway 66
Grants**

**August 23, 2011
Western New Mexico Correctional Facility
1112 N. Lobo Canyon Road
Grants**

Monday, August 22

- 10:00 a.m. **Call to Order**
—Representative Al Park and Senator Peter Wirth, Co-Chairs
- 10:05 a.m. **Approval of Minutes**
- 10:10 a.m. **Report from Corrections: Overview, Private Prisons, Probation and Parole,
Reform and Reentry Efforts, Solitary Confinement**
—Lupe Martinez, Secretary of Corrections
- Prison Population Forecast**
—Tony Ortiz, Executive Director, New Mexico Sentencing Commission
- 1:00 p.m. **Lunch**
- 1:40 p.m. **The Use of Solitary Confinement: Issues and Solutions**
—James Austin, Ph.D., President, JFA Institute; Former Director, Institute of
 Crime, Justice and Corrections, George Washington University; Former
 Chair, National Policy Council, American Society of Criminology
—Sheila Lewis, Executive Director, New Mexico Women's Justice Project

Public Comment

Tour of New Mexico Women's Correctional Facility

Recess

Tuesday, August 23

9:00 a.m. **Corrections Corporation of America in New Mexico**
—Edwin T. Mahr, Lobbyist, Corrections Corporation of America

9:30 a.m. **Transition from Prison to Community**
—Lisa Broidy, Ph.D., Director, Institute for Social Research, University of New
Mexico

Public Comment

Tour of Western New Mexico Correctional Facility

Adjourn

Revised: October 18, 2011

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

**October 20-21, 2011
Room 307, State Capitol**

Thursday, October 20

- 10:00 a.m. **Call to Order**
—Senator Peter Wirth and Representative Al Park, Co-Chairs
- 10:02 a.m. **Approval of Minutes**
- 10:05 a.m. **Update from the Judicial Compensation Commission**
—Kevin K. Washburn, Dean, University of New Mexico Law School
- 10:30 a.m. **Update to the Workload Measurement Study for the Judiciary,
District Attorneys and Public Defenders**
—Linda Freeman, Deputy Director, New Mexico Sentencing Commission
- 11:15 a.m. **Report from the Judiciary: Unified Budget and Proposed Legislation
(Bill Drafts #3-7)**
—Charles W. Daniels, Chief Justice, New Mexico Supreme Court
—Arthur W. Pepin, Director, Administrative Office of the Courts
- 1:00 p.m. **Working Lunch: Demonstration of the Odyssey Program**
—Steve Prisoc, Judiciary Chief Information Officer
- 2:00 p.m. **Judicial Re-Engineering Commission: Report and Recommendations
(Bill Drafts #8-9)**
—Charles W. Daniels, Chief Justice, New Mexico Supreme Court
—Arthur W. Pepin, Director, Administrative Office of the Courts
- 4:00 p.m. **Alternative Dispute Resolution Initiative in the Courts**
—Edward L. Chavez, Justice, New Mexico Supreme Court

Public Comment

Recess

Friday, October 21

- 9:00 a.m. **Crossroads for Women: Path to Successful Reintegration**
—KC Quirk, Executive Director, Crossroads for Women
—Larrea Lavoiscia, LISW, Clinical Director, Crossroads for Women
- 10:00 a.m. **Legislative Proposals from the Attorney General (Bill Drafts #10-20)**
—Gary King, Attorney General of New Mexico
- 12:00 noon **Corrections: Welcome to Acting Secretary and Update on Request
for Proposals for Medical Services**
—Alfonso Solis, Acting Secretary of Corrections

Public Comment

Adjourn

Revised: November 9, 2011

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

**November 14-15, 2011
Room 307, State Capitol**

Monday, November 14

- 9:00 a.m. **Call to Order**
—Representative Al Park and Senator Peter Wirth, Co-Chairs
- 9:03 a.m. **Approval of Minutes**
- 9:05 a.m. **Patients' Rights**
—Deborah Martinez
—Dan Weaks, Policy Consultant, New Mexico Hospital Association
- 10:00 a.m. **HJM 17 Task Force Recommendations to Reduce the Number of
People with Mental Health Disorders in Detention or Who Require
Law Enforcement Intervention**
—Grace Philips, Attorney, New Mexico Association of Counties
—Alfonso Solis, Chief of Police, Roswell Police Department
—Nils Rosenbaum, M.D., Psychiatrist, Crisis Intervention Team,
Albuquerque Police Department
—Michael Hubert, Consultant, Office of Consumer Affairs, Behavioral
Health Services Division, Human Services Department
- 12:00 noon **Lunch**
- 1:30 p.m. **Update on County Detention Facility Reimbursement Act**
—Linda Freeman, Deputy Director, New Mexico Sentencing Commission
- 2:00 p.m. **Reducing the Burden on County Detention Facilities (HJM 4)**
—Arthur W. Pepin, Director, Administrative Office of the Courts
—Tony Ortiz, Executive Director, New Mexico Sentencing Commission
—Steven Kopelman, Risk Management Director and General Counsel,
New Mexico Association of Counties
—Tom Swisstack, Deputy County Manager of Public Safety, Bernalillo
County

3:30 p.m. **Revisions to the Space Flight Informed Consent Act (Bill Draft #21)**

—Robert J. Desiderio, Attorney, Sanchez Mowrer & Desiderio PC

4:15 p.m. **Secretary of Corrections: Welcome and Update**

—Gregg Marcantel, Secretary of Corrections

Public Comment

Recess

Tuesday, November 15

9:00 a.m. **Consumer Lending Update**

—Gary King, Attorney General of New Mexico

—Karen Meyers, Assistant Attorney General and Director, Consumer Protection Division, Attorney General's Office

10:00 a.m. **Revisions to the Sale of Recycled Metals Act (Bill Draft #22)**

—Leo Baca, Director, New Mexico Legislative Affairs, CenturyLink, Inc.

—Mike Sindelar, Detective, San Juan County Sheriff's Office

—Minda McGonagle, Lobbyist, Responsible Metal Recyclers Initiative

11:00 a.m. **Rights of Public Safety Employees (Bill Draft #23)**

—Carter Bundy, New Mexico Legislative Director, American Federation of State, County and Municipal Employees (AFSCME)

—Robert Trombley, Staff Representative, AFSCME

12:00 noon **Endorsement of Legislation**

—Committee Members

Public Comment

Adjourn

Minutes

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

**June 17, 2011
Room 307, State Capitol
Santa Fe**

The first meeting of the Courts, Corrections and Justice Committee was called to order by Representative Al Park, co-chair, on June 17, 2011 at 10:05 a.m. in Room 307 of the State Capitol, Santa Fe.

Present

Rep. Al Park, Co-Chair
Sen. Peter Wirth, Co-Chair
Sen. Rod Adair
Rep. Joseph Cervantes
Rep. Gail Chasey
Rep. Zachary J. Cook
Rep. David L. Doyle
Sen. Mary Jane M. Garcia
Rep. Nate Gentry
Sen. Clinton D. Harden, Jr.
Sen. Linda M. Lopez
Rep. Antonio "Moe" Maestas
Rep. William "Bill" R. Rehm

Absent

Sen. Richard C. Martinez
Sen. John C. Ryan
Rep. Mimi Stewart

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Dennis J. Kintigh
Rep. W. Ken Martinez
Sen. Cisco McSorley
Rep. Bill B. O'Neill
Sen. Sander Rue
Rep. Sheryl Williams Stapleton
Rep. Richard D. Vigil

Rep. Cathrynn N. Brown
Rep. Brian F. Egolf, Jr.
Sen. Carroll H. Leavell
Sen. William H. Payne
Sen. John Pinto
Sen. Michael S. Sanchez
Sen. David Ulibarri

Staff

Maha Khoury, Staff Attorney, Legislative Council Service (LCS)
Alise Rudio, Staff Attorney, LCS
Leslie Porter, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Friday, June 17

Welcome and Introductions

Representative Park welcomed committee members and guests and requested that committee members and staff introduce themselves to the audience.

Interim Committee Protocols

Raúl E. Burciaga, director, LCS, briefed the committee on interim committee protocols and voting. He discussed the cuts in the interim budget and said that the New Mexico Legislative Council requested that interim committees have the same number of meetings as during the 2010 interim.

Work Plan and Meeting Schedule for the 2011 Interim

Committee members discussed issues and possible topics for the committee and voiced their concerns and preferences on topics to be addressed during the interim.

Update on the Status of the Judiciary

Charles W. Daniels, chief justice, New Mexico Supreme Court, and Arthur W. Pepin, director, Administrative Office of the Courts, provided background on the current status of the court system and advances currently being made. They emphasized that the courts are struggling financially and that some are not able to stay open for typical business hours five days a week due to a lack of staffing. They noted that this is a disservice to the people of New Mexico.

Regarding progress made within the court system, Chief Justice Daniels discussed the Safe Surrender Program, in which nonviolent offenders who have warrants issued for their arrest are able to go to a court and pay the fees and have their warrants dismissed without the threat of arrest. He noted that there is an increase of revenue in and positive feedback about this program. He thanked the committee for its support of the new judgeship requested last year for the Eighth Judicial District. He discussed the progress of the three automation projects: the Odyssey electronic case management system; the electronic filing system; and the electronic filing of traffic citations by police officers. He explained that the Odyssey case management system has saved and will continue to save money due to fewer personnel needed. The electronic filing system allows lawyers to file necessary documents 24 hours a day electronically; and the electronic filing interface allows police officers to file traffic citations electronically in their vehicles rather than physically take the citation to a courthouse.

At the committee's request, Chief Justice Daniels and Mr. Pepin listed court-related legislation that was vetoed by the governor.

Members of the committee expressed their concerns, discussed the vetoed bills and offered suggestions. Members also discussed other issues, such as overcrowding in prisons, pretrial detention and felons' voting rights.

Public Comment

Senator Wirth invited members of the audience to comment and to suggest other topics for consideration.

Adjournment

There being no further business before the committee, the first meeting of the Courts, Corrections and Justice Committee adjourned at 12:45 p.m.

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

**July 14, 2011
Youth Diagnostic and Development Center Auditorium
4000 Edith Boulevard NE
Albuquerque**

**July 15, 2011
Children, Youth and Families Department
Protective Services Office
1031 Lamberton Place NE
Albuquerque**

The second meeting of the Courts, Corrections and Justice Committee was called to order by Representative Al Park, co-chair, on July 14, 2011 at 10:10 a.m. at the Youth Diagnostic and Development Center Auditorium in Albuquerque.

Present

Sen. Peter Wirth, Co-Chair
Rep. Al Park, Co-Chair (July 14)
Sen. Rod Adair (July 15)
Rep. Gail Chasey
Sen. Mary Jane M. Garcia (July 14)
Rep. Nate Gentry
Sen. Clinton D. Harden, Jr.
Sen. Linda M. Lopez
Sen. Richard C. Martinez
Rep. William "Bill" R. Rehm
Sen. John C. Ryan (July 15)

Absent

Rep. Joseph Cervantes
Rep. Zachary J. Cook
Rep. David L. Doyle
Rep. Antonio "Moe" Maestas
Rep. Mimi Stewart

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Brian F. Egolf, Jr. (July 14)
Rep. Dennis J. Kintigh
Rep. W. Ken Martinez
Sen. Cisco McSorley
Rep. Bill B. O'Neill
Sen. Sander Rue

Rep. Sheryl Williams Stapleton
Sen. David Ulibarri (July 15)
Rep. Richard D. Vigil (July 15)

Rep. Cathrynn N. Brown
Sen. Carroll H. Leavell
Sen. William H. Payne
Sen. John Pinto
Sen. Michael S. Sanchez

Guest Legislator

Rep. Debbie A. Rodella (July 15)

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

Staff

Maha Khoury, Staff Attorney, Legislative Council Service (LCS)
Alise Rudio, Staff Attorney (July 14), LCS
Douglas Carver, Staff Attorney (July 15), LCS
Leslie Porter, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Thursday, July 14

Welcome and Introductions

Representative Park welcomed committee members and guests and requested that committee members introduce themselves to the audience.

Approval of Minutes

The minutes of the previous meeting were approved by the committee.

Update on Cambiar New Mexico: Juvenile Supervision, Facilities and Programming

Yolanda Berumen-Deines, secretary, Children, Youth and Families Department (CYFD), expressed her excitement about the meeting being held at the Youth Diagnostic and Development Center (YDDC) and about the tour of the facility. She discussed the continued implementation and progress of Cambiar New Mexico. Secretary Berumen-Deines explained the philosophy of the CYFD's juvenile justice programs and said that they provide a continuum of services from the time a youth enters the system until the youth re-enters society. She noted that her administration has evaluated the Cambiar model and has decided to continue using it. She said that the CYFD has worked closely with the Missouri Youth Services Institute to improve sustainability efforts. She stated that Cambiar immersion training was completed for all of the

units in Camino Nuevo and the YDDC in April 2011, and she assured the committee that new staff members will also receive the training.

Secretary Berumen-Deines said that internal audits will be conducted annually, or more often as needed, and she discussed facility trends. She said that the trend of admissions to juvenile facilities is stable, and she noted that 70 percent of the youths who are committed to a secure facility are age 17 or older. She stated that her administration's current initiatives include providing governance and accountability to ensure that safety and security policies are followed, maintaining a continuous recruitment process for youth care specialists and re-establishing an internal quality assurance program. Regarding future initiatives, the secretary said that her administration is working closely with the behavioral health community to develop services that divert youths from incarceration.

Edna Reyes-Wilson, Ph.D., deputy secretary, CYFD, added that she looks forward to seeing the model grow and evolve into something that provides true rehabilitation.

Pablo Sedillo III, director, Juvenile Justice Services, CYFD, expressed his strong belief in ensuring the safety of the staff and children. He discussed Cambiar and the importance of enhancing the program. He said it is critical to make contact with a youth and then keep track of that youth while the youth is in the system. He said that it is Juvenile Justice Services' job to rehabilitate children before sending them back into society. This can only be accomplished through a treatment-oriented system in which life skills are taught, and that system is in place to promote that goal.

Peter Cubra, an attorney representing the American Civil Liberties Union (ACLU), briefly discussed his background and his involvement with representing children in the juvenile justice system. He said that the juvenile justice system was in terrible shape in 2003, especially the former New Mexico boys' school in Springer. He stated that medical services in the youth facilities across the state are grossly inadequate and that no good grievance system is in place. He said that after litigation and settlements, the situation has improved, and medical care at Camino Nuevo and the YDDC has gone from deplorable to decent and mental health care has significantly improved. He said that there are still areas that need attention, such as a reliable quality assurance system and severe staff vacancies, especially in the mental health area. He said that the CYFD needs to discipline staff members who do not treat youths well or support the Cambiar principles. Finally, he discussed litigation issues that remain and the progress being made. He expressed his respect for the current administration. Secretary Berumen-Deines noted that the CYFD and the ACLU recently had a productive meeting and gave Mr. Cubra her assurance that she takes seriously the agreements made between the CYFD and the ACLU.

Monique Sambrano told the committee about how her family was hit by tragedy twice due to juveniles who committed two murders. She stated that she feels 13-year-olds who commit murder should be prosecuted as adults to the full extent of the law. A copy of her testimony is in the meeting file.

Members of the committee expressed their support of the implementation and principles of Cambiar New Mexico and for the new administration. Committee members asked questions and discussed policy options on various topics, including the internal audit data; anticipated increase of youths in juvenile facilities; comparison of the old and new treatment and rehabilitation methods; solitary confinement; quality of health services in juvenile detention facilities; foster care; and staffing.

Tours of the YDDC and Camino Nuevo

Committee members, staff members and members of the public toured both facilities, asked questions and spoke with many of the youths detained in the facilities.

Teen Court: Alternative Sentencing for Juveniles

Alice Sealey, program manager, Teen Court of Santa Fe County (TCSF), explained that there are 20 teen courts across the state and that the objective of teen court is to keep teenagers out of the juvenile justice system. She said that teen courts are alternative sentencing courts that allow teenagers who admit to guilt to complete a voluntary program in exchange for keeping their records clean.

Jennifer Romero, program coordinator, TCSF, explained that in teen court, teenagers are sentenced by a teen jury. She emphasized that teen court does not determine guilt or innocence but is for sentencing only. She said that the program is available for eligible teenagers with misdemeanor offenses who are referred to teen court by magistrate or municipal courts, juvenile probation and parole, public schools and children's court. Teen volunteers from local high schools act as attorneys. Examples of teen court sentencing include substance abuse programs, parent involvement programs, smoking cessation programs, community service and a graffiti clean-up project. She added that part of the teen court funding comes from DWI prevention money, so every teenager goes through a DWI prevention program.

Ms. Romero said that the TCSF conducted a recidivism study in 2011 to assess the efficacy of the program and capture the demographic and socioeconomic profile of teenagers who complete teen court. The study received a 28 percent response rate, and the results showed that the recidivism rate is 15 percent. In the demographic and socioeconomic profile, 66 percent of first-time offenders are males, 69 percent of first-time offenders are Hispanic and 81 percent of offenders complete their high school education after completing the teen court program.

Ms. Sealey noted that the teen court is funded through fees, DWI funds and state, county and city appropriations. She told the committee that teen court is open to any legislator who would like to visit.

The committee asked questions of the panel, made comments and discussed policy options.

Public Comment

David R. Schmidt, director, New Mexico Council on Crime and Delinquency, stated that teen courts began in the 1960s, and communities have learned their many pitfalls, such as giving a teenager the ability to sentence another teen and allowing teen courts to take on more serious crimes, such as DWI. He said that a state fund has been created to operate them, yet guidelines are lacking. Finally, he expressed concern that teen courts have evolved into quasi-judicial establishments.

Mr. Cubra, speaking as a citizen, said that the results of Cambiar New Mexico will not be seen for a while because the program is still being implemented throughout the state. He emphasized that he is a strong supporter of Cambiar and its methodology. In the past, violent youths have been contained by violence and threats of violence, the opposite of what adults want to show to children. He said better results are achieved when youths are taught to face each other as humans, to make themselves accountable and to instill values in each other.

Recess

The committee recessed at 4:45 p.m.

Friday, July 15

The meeting was reconvened by Senator Wirth at 9:05 a.m. Due to the highly publicized nature of the first topic on the day's agenda, Senator Wirth suggested that public comment be taken after the first presentation.

Comparison of Voter Registration and Motor Vehicle Division Records

Secretary of State Dianna J. Duran thanked the committee for inviting her, and she introduced members of her staff: Thomas Dow, general counsel; Bobbi Shearer, director, Bureau of Elections; and Ken Ortiz, chief of staff. Secretary of State Duran said that she hopes to clear up misunderstandings surrounding her investigation of voter files. She emphasized that it is her obligation and responsibility to ensure that her office has the most accurate voter file in the state and to verify and ensure that everything in the database is accurate. She explained that in January, her office became aware of the issue of verification of voter data and that federal law gives the secretary of state the authority to verify the voter registration data with the Motor Vehicle Division (MVD) of the Taxation and Revenue Department and the federal Social Security Administration (SSA). Secretary of State Duran noted that while the press has reported that she had launched an investigation of voter fraud, she never stated that she was investigating voter fraud. Secretary of State Duran emphasized repeatedly that this is a verification process and that her responsibility as secretary of state is to assure the accuracy and integrity of the voter files.

Senator Wirth allowed public comment after Secretary of State Duran's opening remarks. Dick Mason from the League of Women Voters stated that the league is concerned about unsubstantiated statements regarding voter fraud, which statements undermine public confidence

in the voting process, and about the lack of transparency in the process, particularly that the Office of the Secretary of State has not revealed the files being investigated or the information used to justify an investigation of certain voter files.

Sheryl Nichols of the New Mexico County Clerks Affiliate said that the county clerks do not believe that there is widespread error or fraud in the voter files and are willing to assist the secretary of state.

Steven Allen, executive director, Common Cause New Mexico, noted the problems with alleging that undocumented individuals have been voting in New Mexico elections.

Lissa Knudsen, director of public policy for the New Mexico ACLU, said that the lack of transparency in this process is her organization's biggest concern, specifically the redacting of information from documents that have been provided.

Sterling Fluharty stated that the United States Census Bureau conducts a survey of national voters in which it asks about registered voters. He said that New Mexico has not always done the best job with keeping the voting rolls clean or accurate and that with the latest census data, there are 20 precincts in Bernalillo County in which there appear to be more registered voters than the actual number of eligible voters.

Another member of the public stated that there had been many studies showing voter fraud.

Paul Stokes of United Voters of New Mexico stated that it is important to ensure that files are accurate, and he is concerned that the information would be used for partisan purposes. He is also worried that the investigation is a precursor to a voter identification law.

Members of the committee asked about the process that was used to compare the voter data with MVD and SSA records and what would be done with the individuals whose names do not match either database. Secretary of State Duran responded that the federal Help America Vote Act of 2002 gives her office the authority to compare the entire voter registration database. She described the steps taken by her office. First, the name, social security number and date of birth of voters in the voter registration database were compared with the MVD's database because, as Mr. Ortiz clarified, every driver's license applicant with a social security number is matched with SSA records to confirm identification of that person. Second, if the information was not verified by comparison against the MVD database, it was compared with information at the SSA. If the voter information did not match either MVD or SSA records, then it was sent to the Department of Public Safety (DPS) for investigation. Secretary of State Duran stated that 5.5 percent of the voter database, around 64,000 voter records, were sent to the DPS for investigation. She categorized the records that did not match into three groups: clerical errors; invalid social security numbers; and names and dates of birth that did not match valid social security numbers. Secretary of State Duran stated that her office does not have the authority to remove anyone from the voter files, and she assured the committee that no one in her office will be doing this.

Committee members asked for clarification as to why all 33 county clerks believe that there are no errors in the files. Ms. Nichols responded that there are probably clerical errors but not voter fraud. Discussion ensued among the members, the panel and the public about whether the names of the individuals who cannot be matched to the MVD or SSA databases should be published. Mr. Mason expressed his desire for the League of Women Voters to have access to the files so it may conduct an investigation of its own. Ms. Knudsen of the ACLU would like the files so that the ACLU can ensure that a particular group is not being targeted and to gain the public's trust. Secretary of State Duran explained the process that contributed to the bloated voter files, including a confirmation mailing that should have been conducted in 2007 but was not. Secretary of State Duran said her office is currently aiming to conduct the confirmation mailing every October, and she added that the next purge of the files will not be until 2013.

Members of the committee expressed concern that the investigation appears to be a criminal, not an administrative, investigation because files have been turned over to the DPS. Concern was also expressed that the secretary of state does not have the authority to involve the DPS but is required by law to turn over such investigations to the attorney general or the appropriate district attorney. Another question was raised as to whether it is a violation of law to turn over social security numbers to the DPS without the authority to divulge those numbers. Mr. Dow explained that when criminal activity might be involved, any district attorney would want a law enforcement agency to conduct the investigation. He added that the DPS has the technical knowledge and expertise to sort through the data and detect specific problems. He stated that the investigation is potentially or partially criminal, but conclusive evidence will not be revealed until the investigation is over.

Some members questioned why the county clerks were not involved in this process from the beginning, as they are local and closer to the voters and can more readily identify errors in the voter files. The response was that the DPS is trained for this type of work, and inconsistent data are not something that county clerks necessarily could fix.

Certain members of the committee noted that there is a perception of widespread voter fraud in the state and that it is important for public confidence that the voter files be accurate. Secretary of State Duran was commended for her efforts and diligence in assuring that voter files are reliable and for minimizing any inaccuracy or fraud in the system. The point was made that the committee had scheduled three separate presentations about potential voter fraud, and the persons who alleged the existence of voter fraud did not attend the meetings.

Certain members of the committee conveyed their constituents' fears that the secretary of state is conducting a wide-ranging criminal investigation. These constituents are particularly worried that they could face charges or go to jail if, for some reason, their names are wrong in the voter rolls. The point was made that social security numbers may be problematic for older residents and that there are people in New Mexico who were never assigned a social security number.

When asked about the costs of this investigation, Secretary of State Duran responded that employee hours dedicated to the investigation have not been compiled but that her office and the DPS have determined that no extra money will be needed.

Elections: Reporting of Independent Expenditure and Update on Public Financing

Josephine Porter of the League of Women Voters of New Mexico and Mr. Allen gave a presentation on two draft bills concerning elections. Ms. Porter discussed the issue of independent expenditures. She noted that the federal courts have severely restricted what state governments can do to limit independent expenditures but that they have strongly endorsed disclosure requirements. She noted that the Campaign Reporting Act does not distinguish between independent expenditures and party committees. Ms. Porter emphasized that it is important that any legislation be carefully drafted so that there is no chilling or intimidating effect on constitutionally protected speech. Mr. Allen noted that the Campaign Reporting Act does a good job of asking elected officials to disclose their finances, but it does not do a good job requiring disclosure from independent groups.

With respect to public financing, the committee discussed the recent decision by the United States Supreme Court in *Arizona Free Enterprise v. FEC*, which invalidated a public financing scheme in Arizona similar to one in New Mexico. Ms. Porter stated that public financing of elections provides support to average citizens and small business owners in making an impact on the election system by allowing maximum participation in the democratic process. She added that when an individual is running for office, public financing allows that individual to express ideas free of the perception of undue influence by large donors. Their discussion elaborated on two memoranda provided to the committee by Common Cause New Mexico.

When asked what would happen if no action were taken on these issues, Mr. Allen responded that the state does not currently have a functional Campaign Reporting Act and that the state would go into an election with no transparency requirement for independent expenditures. Regarding public financing, he noted that there is no additional money for the 2010 election cycle. When asked about proposed fixes for the *Citizens United* case, Mr. Allen stated that there have been attempts to pass federal legislation requiring additional disclosure. Members of the committee also inquired about the current public financing system in New Mexico, and Secretary of State Duran and Mr. Dow participated in this discussion. There was general agreement that, given the proximity of the 2012 elections, if changes are needed, they should be considered in the pending special session of the legislature.

Adjournment

There being no further business before the committee, the second meeting of the Courts, Corrections and Justice Committee adjourned at 12:50 p.m.

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

**August 22, 2011
New Mexico Women's Correctional Facility
1700 East Old Highway 66
Grants**

**August 23, 2011
Western New Mexico Correctional Facility
1112 N. Lobo Canyon Road
Grants**

The third meeting of the Courts, Corrections and Justice Committee was called to order by Representative Al Park, co-chair, on August 22, 2011 at 10:10 a.m. at the New Mexico Women's Correctional Facility (NMWCF) in Grants.

Present

Sen. Peter Wirth, Co-Chair
Rep. Al Park, Co-Chair
Sen. Rod Adair (August 22)
Rep. Joseph Cervantes
Rep. Gail Chasey
Rep. Zachary J. Cook (August 22)
Sen. Mary Jane M. Garcia
Rep. Nate Gentry (August 22)
Sen. Clinton D. Harden, Jr.
Sen. Linda M. Lopez
Rep. Antonio "Moe" Maestas
Sen. Richard C. Martinez
Rep. William "Bill" R. Rehm
Rep. Mimi Stewart

Absent

Rep. David L. Doyle
Sen. John C. Ryan

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Brian F. Egolf, Jr.
Rep. Dennis J. Kintigh
Rep. W. Ken Martinez
Sen. Cisco McSorley

Sen. John Pinto (August 22)
Sen. Sander Rue
Sen. David Ulibarri

Rep. Cathrynn N. Brown
Sen. Carroll H. Leavell
Rep. Bill B. O'Neill
Sen. William H. Payne
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Richard D. Vigil

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

Staff

Maha Khoury, Staff Attorney, Legislative Council Service (LCS)
Leslie Porter, Research Assistant, LCS
Rebecca Griego, Records Officer, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, August 22

Welcome and Introductions

The committee was welcomed by Edwin T. Mahr, lobbyist, Corrections Corporation of America (CCA). He informed the committee that the first time a committee held a meeting at a correctional facility, it was at the current meeting location, the NMWCF. He stated that the facility is the most efficiently operated female felony correctional facility in the country. He added that this statement can be disputed, but not refuted.

Arlene Hickson, warden of the facility, said she is proud of the programs provided to the inmates and briefly talked about the new veterinarian technical assistant program. She also discussed the Dolls Against Domestic Abuse (DADA) made by the women at the facility and given to children by police at domestic abuse sites.

Laurie Shanblum, senior director, business development, CCA, Austin, Texas, expressed her pleasure to show the CCA's facilities. She introduced her guest, Leticia Chavez, a graduate from the facility who runs a transitional house for ex-offenders on parole or probation or who are in distress.

Approval of Minutes

The minutes of the previous meeting were approved by the committee.

Report from Corrections: Overview, Private Prisons, Probation and Parole, Reform and Reentry Efforts and Solitary Confinement

Lupe Martinez, secretary, New Mexico Corrections Department (NMCD), introduced multiple members of her staff. Regarding the NMCD's budget, she noted the budget cuts for fiscal years 2011 and 2012. She explained how these cuts have exacerbated staffing shortages, resulting in 576 vacancies overall and creating a 23.16% vacancy rate, with 278 of those vacancies being correctional officers. In addition, the NMCD is paying more in overtime due to staffing shortages. She discussed how the department is experiencing high employment competition for correctional officers and difficulty in finding qualified individuals due to background checks and competitive salaries offered by private correctional companies.

Concerning the impact on correctional programs, Secretary Martinez said that despite the lack of educators, there is a rise in general education development (GED) certificates. However, treatment programs have decreased due to staff shortages, and the ability of the department to work on major efforts for reentry and reform has been reduced. Secretary Martinez stated that the department is implementing Native American needs programs and treating addiction from a cultural standpoint. She said that the Correctional Industries Division of the NMCD, which receives no general fund support, has experienced the most drastic impact: a 48% vacancy rate. This has forced the division to be creative in ways such as collaborating with private industries to produce solar panels. She said the department is trying to bring license plate production back to New Mexico from Canada.

The secretary stated that reentry has to become the state's highest priority. She explained how the NMCD is utilizing ex-offenders who have been successful outside of prison by encouraging them to educate inmates about what they did right to not return to prison. She discussed substance abuse programs established to facilitate ex-offender success and the implementation of gender-specific programming and training. She said that the NMCD must be cognizant of providing inmates with job skills that be can utilized once the ex-offender is released into the community.

The inmate population on June 30, 2011 was 6,669, with 614 of those inmates being female. The secretary expressed concern about the increase in the number of female inmates and gang members. Another concern is the lack of funding for building infrastructure and repairs.

Shannon McReynolds, acting public information officer, NMCD, said that the NMCD continues to contract with GEO Group, Inc., and the CCA. She said that 44% of the total inmate population is housed in four private institutions. She explained that the private institutions were not maintaining staffing patterns required by contract and that a review was completed as to possible penalties. She stated that the penalty calculated for the Lea County Correctional Facility was over \$186,000 and the penalty calculated for the NMWCF was almost \$19,000. The penalties have not yet been assessed.

David Jablonski, director, Adult Probation and Parole Division, NMCD, said his operations monitor a total of 18,000 offenders, 14,000 of whom are actively reporting. He stated that due to vacancies in officers, the workload amounts to over 100 cases per officer. He explained that there is no longer a hiring freeze and the division is making all efforts to fill the vacant positions, including providing an additional 5% of supervisory pay to retain and recruit qualified officers. He stated that despite the perception that the division simply locks up offenders at will, the division seeks alternative treatment options for returning offenders. An additional challenge is the sex offender supervision and the active GPS monitoring of each sex offender, which will increasingly impact the staff needs and budget of the Adult Probation and Parole Division.

Dr. Bianca McDermott, Mental Health Bureau chief, NMCD, offered a brief history of solitary confinement in the United States. Dr. McDermott explained that the classification system at the NMCD was created in 2001 and includes Level V and Level VI, which are the maximum security, segregated units. The NMCD has 600 Level V and Level VI beds. She stated that cognitive restructuring is not required for an inmate to earn a way out of Level VI. Dr. McDermott said that in 2003, an Alternative Placement Area (APA) was created for Level V and Level VI inmates who had serious mental illnesses, such as a history of suicidal ideation, chronic self-injury or psychotic disorders. Dr. McDermott gave a background on the staffing and programs available within Level V and Level VI and in the APA, and she described how security house unit (SHU) syndrome was derived, as discussed in an article titled "The Psychological Effects of Administrative Segregation: The Colorado Study" in Correctional Mental Health Report.

Jerry Roark, deputy director, Adult Prisons, NMCD, explained that as of August 2011, 23% of the inmates in Level VI are there due to being threats to security, 73% are there for protective custody because they feel they are in danger and 4% of the inmates are there due to misbehavior. He stated that the average length of stay in Level VI is 754 days, and the average length of stay in step 5 of Level VI is 535 days. Mr. Roark explained the policies and procedures for Level VI segregation. For example, when an inmate is placed in Level VI, within 72 hours that inmate will be reviewed to see if that inmate needs to remain in Level VI and a mental health analysis is then done. A classification committee and bureau determine the classification level of the inmate, and the inmate has a right to appeal the decision in writing within 15 days. He explained the procedure and time frames for stepping down from Level VI. He said that privileges are increased with each level decrease and essentially, if an inmate refrains from misconduct, the inmate will progress. He also clarified that even though Level VI is maximum security and there is no group activity, it is not solitary confinement, for the inmates are able to communicate with each other.

Johannes Hedrich, bureau chief, Education Bureau, NMCD, discussed the educational opportunities within Level V and Level VI. Mr. Hedrich explained the library system, the GED tutoring, mental health services, faith-based services and substance abuse services available to inmates.

Charlene Knipfing, director, Reentry and Prison Reform Division, NMCD, stated that the United States Department of Justice estimates a 50% recidivism rate within three years of release. She discussed rehabilitation and community-based programs funded through federal grant money. She said the reentry modeling framework is based upon risk reduction instead of risk management and upon the idea that ex-offenders are capable of change. She explained that the division has been unable to expand its projects due to a lack of funding. She said that when the economic challenges hit New Mexico, 40 full-time-equivalent positions never materialized. She described significant progress made within the past six months on several initiatives: evaluating existing prison programs; finalizing the resource manual; securing funding to provide gender and culturally specific residential substance abuse treatment programs; securing funding for the Reentry and Prison Reform Division to provide assessments for high-risk inmates; utilizing staff to encourage inmates to better themselves and participate in available programs; and the spreading of the reentry message throughout the state.

Prison Population Forecast

Tony Ortiz, executive director, New Mexico Sentencing Commission, highlighted national and New Mexico trends within the prison population. He said that other states that are facing budget cuts are engaging in early release, which places more stress on their probation and parole divisions. He briefly discussed specialty courts such as drug, homeless and mental health courts and their funding sources. He said that when the underlying problems of the prison population are addressed, a favorable impact will result. He stated that New Mexico has an operational capacity for male inmates of about 6,500 beds and said that the short-term forecast for fiscal year 2012 and fiscal year 2013 is positive, illustrating slow growth, resulting in 300 to 350 empty beds. Mr. Ortiz clarified that this inmate vacancy rate is critical for proper use of the classification system. A 5% vacancy rate is needed to allow movement to and from segregation units and proper classification. Talking about causes of incarceration of young people, he spoke briefly about a positive step taken by the federal Environmental Protection Agency to outlaw lead paint, for exposure to lead is a direct cause of increased violence and delinquent behavior in young people.

Committee members asked questions of the secretary and her staff, requested clarification and discussed policy options. Members inquired about the male and female incarceration and recidivism rates; visitation policies; how serious and technical parole violators are handled; and medical, mental health and educational services provided.

The Use of Solitary Confinement: Issues and Solutions

James Austin, Ph.D., president, JFA Institute, stated his background and his work with both the state and federal governments on various prison issues and how he helped to set up the classification system in New Mexico. Dr. Austin outlined three types of segregation or solitary confinement. One is administrative segregation, which is discretionary and is used for the most dangerous inmates for an indefinite period of time; another is disciplinary segregation for those who violate rules; and a third is protective custody for those in need of personal protection. Dr. Austin gave an overview of long-term segregation (LTS) and emphasized how LTS differs from

punitive or disciplinary segregation and should be a multilevel, incentive-based system with clear benchmarks for inmates and staff. He briefly explained the process for analysis of admissions and release from LTS and discussed conditions of confinement. Dr. Austin discussed reforming segregation and provided examples of LTS reform results from various states. In conclusion, he stated that studies have illustrated that the length of an inmate's stay in LTS does not determine subsequent acts performed by the given inmate. Therefore, he said the length of time an inmate is placed in LTS should be lessened and the inmate should be returned to the general population.

Members of the committee engaged in conversation with Secretary Martinez and Dr. Austin about policy in New Mexico for an inmate to exit protective custody; a solitary confinement study specific to New Mexico; and a description of what solitary confinement entails in New Mexico.

Public Comment

Ms. Chavez, an ex-offender who spent four years at the WNMCF, discussed her experience at the facility and her efforts after leaving. She said she held herself accountable for her actions and decided to create a peaceful habitation, which is now a transition home. She said her transition home implements an employment program for employers to hire ex-offenders as interns. She said the system must provide the inmates a way to earn privileges instead of simply releasing them, for it will be more beneficial to the inmate in the long run. She stated that she is opening a second house with plans for an additional house in Las Cruces.

Tour of the NMWCF

Committee members, staff and members of the public toured the correctional facility. The committee recessed at 5:15 p.m.

Tuesday, August 23

CCA in New Mexico

Mr. Mahr listed the three CCA facilities in New Mexico: Cibola County Correctional Facility (CCCF) in Milan; NMWCF in Grants; and Torrance County Detention Center (TCDC). Elaborating on the CCCF, he said it is a federally contracted facility under the Federal Bureau of Prisons, opened in 1998. He said it has 1,129 beds and is usually full to capacity. Mr. Mahr explained that most of the inmates at that facility are undocumented immigrants who have committed felonies, have been adjudicated by the courts and are serving their sentences. Once their sentences are completed, the ex-offenders will be released to their country of origin. Mr. Mahr stated that property taxes of the CCA to Cibola County are \$1 million. He added that the CCA operates nearly 50,000 beds across the country for the federal government. Discussing the NMWCF, he stated that it is owned and operated by the CCA with a three-year state contract for \$12.5 million per year. The facility employs 160 people. He said the TCDC was built by and is operated by the CCA. He said it has 1,000 beds and currently holds 954 inmates under a U.S. Marshall's contract. Mr. Mahr said the CCA is currently finding it difficult to hire qualified

correctional officers; for example, in a recent search, only one applicant out of 126 qualified due to background problems.

Members of the committee engaged in conversation with Mr. Mahr and Ms. Shanblum, including discussions about lobbying for penalty enhancements, services provided, the discrepancy between wages provided by the state and those by the CCA and standards for hiring correctional officers.

Transition from Prison to Community

Lisa Broidy, Ph.D., director, Institute for Social Research, University of New Mexico (UNM), explained that the Institute for Social Research is affiliated with UNM's Department of Sociology and that most of the work of the institute is related to criminal justice.

Dr. Broidy explained that the project originated from Byrne grant funds and that the primary goal is to identify strengths and gaps in reentry efforts in the state. The project is modeled after the national Transition from Prisons to Community Initiative. Dr. Broidy gave an overview of the study model, explained the methods used and discussed the analytic approach and the strengths and gaps in the study. She discussed the suggested implementation of engagement with community partners and the acknowledgment that reentry of an ex-offender begins at the intake of the inmate. The strengths of the study include reentry committee meetings being held and a balanced mission statement in place. Dr. Broidy emphasized that reentry efforts must begin at intake and stated that a comprehensive risks-needs assessment tool is critical. Gaps in the study include that the risks-needs assessment is not used to classify inmates, there is limited outreach to garner community supports, the programming is not always based on an inmate's criminogenic needs and there is limited inter- and intra-agency collaboration in and support of the initiative. In offering recommendations to the NMCD, Dr. Broidy suggested that the NMCD engage in a thorough planning process, including a staff needs assessment, have the reentry message strengthened and ensure better communication with probation and parole and post-release service providers. Dr. Broidy stated that the implementation of the suggestions in the gaps analysis is expected to reduce recidivism, create safer communities and produce long-term cost savings.

Committee members asked questions, requested clarifications and inquired about various aspects of the study.

Tour of Western New Mexico Correctional Facility

Committee members, staff and members of the public toured the facility.

Adjournment

There being no further business before the committee, the committee adjourned at 1:30 p.m.

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

**October 20-21, 2011
Room 307, State Capitol**

The fourth meeting of the Courts, Corrections and Justice Committee was called to order by Senator Peter Wirth, co-chair, on October 20, 2011 at 10:10 a.m. in Room 307, State Capitol.

Present

Sen. Peter Wirth, Co-Chair
Rep. Al Park, Co-Chair
Sen. Rod Adair (October 21)
Rep. Joseph Cervantes
Rep. Gail Chasey
Rep. Zachary J. Cook
Rep. Nate Gentry
Sen. Linda M. Lopez
Rep. Antonio "Moe" Maestas
Sen. Richard C. Martinez
Rep. William "Bill" R. Rehm (October 20)

Absent

Rep. David L. Doyle
Sen. Mary Jane M. Garcia
Sen. Clinton D. Harden, Jr.
Sen. John C. Ryan
Rep. Mimi Stewart

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Brian F. Egolf, Jr.
Rep. Dennis J. Kintigh
Rep. W. Ken Martinez (October 20)
Sen. Cisco McSorley
Rep. Bill B. O'Neill
Sen. William H. Payne (October 20)
Sen. John Pinto
Sen. Sander Rue (October 20)
Rep. Sheryl Williams Stapleton

Rep. Cathrynn N. Brown
Sen. Carroll H. Leavell
Sen. Michael S. Sanchez
Sen. David Ulibarri
Rep. Richard D. Vigil

Guests Legislator

Speaker Ben Lujan (October 21)

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

Staff

Maha Khoury, Staff Attorney, Legislative Council Service (LCS)
Leslie Porter, Research Assistant, LCS

Guests

A copy of the guest list is in the meeting file.

Handouts

Copies of the handouts can be found in the meeting file.

Thursday, October 20**Update From the Judicial Compensation Commission**

Kevin K. Washburn, dean, University of New Mexico School of Law, explained that the Judicial Compensation Commission is an unfunded, independent commission that was created by the legislature in 2004 to recommend judicial salaries for judges. He said that the commission has repeatedly found that judicial salaries in New Mexico are the lowest in the nine-state region (Texas, Utah, Arizona, Nevada, Kansas, Oklahoma, Colorado, Wyoming and New Mexico) and among the lowest in the United States. He stated that in order to continue to attract qualified judges and encourage them to remain on the bench, this issue must be addressed. Mr. Washburn explained the statutory requirements of the various salary requirements for New Mexico judges and highlighted the fact that the salaries are not adjusted due to location, docket or cost of living, nor are they adjusted for seniority.

Mr. Washburn informed the committee that the commission unanimously adopted recommendations and reviewed the commission's recommendations on judicial compensation, which includes a five-year plan for increasing the salary of the judges in modest incremental steps. Mr. Washburn also discussed judicial retirement and said that docket fees are currently a source of pension funding. Mr. Washburn mentioned several studies that recommend abolishing this practice. He also stated that New Mexico judges contribute a higher percentage of their salary to judicial retirement within the nine-state region, except for Wyoming, yet they do not receive a correspondingly higher retirement benefit. He added that a better, revised retirement plan would attract well-qualified judges in the peak of their careers, as opposed to retired judges and young professionals, as is currently the case. Details of the commission's recommendations can be found in the handout in the meeting file. Mr. Washburn informed the committee that the first step that needs to be taken is to approve a 2% judicial salary increase for fiscal year 2012.

Committee members asked questions and discussed policy options. They also asked whether the commission recommended part-time magistrate judges as a cost-savings method, and Mr. Washburn stated that the commission has not studied judicial staffing or districting issues. Committee members asked if the commission has ideas on where the state can generate the revenue to increase its contribution to judicial retirement. Mr. Washburn responded that the commission has not developed these ideas, but there was a proposal in House Bill 58 last session,

which it is asking to be considered again. While several members acknowledged that New Mexico judges are underpaid, an observation was made that this five-year plan will still result in judges being underpaid in five years.

Update to the Workload Measurement Study for the Judiciary, District Attorneys and Public Defenders

Linda Freeman, deputy director, New Mexico Sentencing Commission (NMSC), stated that the workload measurement study was initially completed in June 2007 and was overseen by the NMSC, which received a one-time appropriation from the New Mexico Legislature. She said the courts and public defenders workload study was completed by the National Center for State Courts, and the district attorneys' workload study was completed by the American Prosecutors Research Institute. She said the study was designed to measure the staffing needs of each agency *independently*, based on annual filings or dispositions. Ms. Freeman clarified that when possible, the same case types were used for comparison. She highlighted that the judicial component includes civil and criminal cases. She explained that a weighted methodology was used, meaning that more serious cases were given higher weights. She also stated that the information has been updated annually by the NMSC with information provided by each agency.

Concerning the findings, the courts, district attorneys and public defenders were understaffed when the results of the study are compared with actual staffing. Committee members asked for clarification on several points, engaged in discussion and had several questions about the staffing of the public defenders as compared with the staffing of the district attorneys.

Report from the Judiciary: Unified Budget and Proposed Legislation

Charles W. Daniels, chief justice, New Mexico Supreme Court, stated that the total requested increases for the judiciary amount to a 4% budget increase. He said the goal is not to padlock the doors of justice. He stated that legislation was enacted in the 2011 legislative session to approve an additional judgeship that was desperately needed, and due to the financial crisis, the 30 other needed judgeships could not be provided. Currently, the judiciary has identified five new judgeships that are critically needed: two judges in the Second Judicial District; two judges in the Thirteenth Judicial District; and one judge in the Bernalillo County Metropolitan Court.

Arthur W. Pepin, director, Administrative Office of the Courts (AOC), explained a summary of the set of budgets comprising the judiciary. He said the judiciary is requesting a \$5 million general fund increase, or 4%. He stated that court employees have not yet been furloughed, but many courts have to close during regular business hours in order to complete paperwork. Mr. Pepin said that the two most significant requests are a \$1.8 million increase in the budget for the AOC and a \$3.1 million budget increase for the courts. He informed the committee that if these budget requests are not fulfilled, fiscal year 2012 may see furloughs. Giving a breakdown of the requested funds, Mr. Pepin said that \$240,000 will be used to fill eight of the 25 clerk vacancies and that the remaining \$3 million will be used to hire other

necessary personnel. Mr. Pepin informed the committee that the courts are currently experiencing an 11% vacancy rate, and the goal is to reduce that to 8%. He drew the committee's attention to a pie chart, illustrating that the courts received 2.48% of general fund appropriations in fiscal year 2012, and he assured the committee that the requested \$5 million will not overbudget the courts. Mr. Pepin briefly discussed the needs of the problem-solving courts and capital and supplemental funding requests. He added that the supreme court is asking for supplemental funding.

Mr. Pepin went over the proposed legislation. He explained that the new judgeships should not be created until January 2013, after the election, to prevent judges from serving for only a few months and to attract better candidates. Mr. Pepin explained the need to create a judicial nominating commission fund in the AOC to provide for the costs of nominating commissions rather than having the law school fund that process. He discussed the need for a distribution from the liquor excise tax to fund drug and DWI courts, the judicial retirement funding bill and funding for background checks on criminal defendants in metropolitan court.

Committee members raised questions and discussed various topics. Members expressed concern about the funding for the specialty courts and asked questions about the proposed legislation. They also discussed court funding for the redistricting process. Chief Justice Daniels clarified that he recused himself from the redistricting litigation and could not speak about it, but he said that this funding was never included in a budget request. Several members discussed how fees should not be used to fund the courts.

Working Lunch: Demonstration of the Odyssey Program

Steve Prisoc, judiciary chief information officer, explained that this program is one of the efforts to modernize the court system. He said that in 2004, it became apparent that the New Mexico judiciary needed a new statewide case management system, and now, the judiciary needs an application to serve as a basis for e-filing, e-documents and e-payments. Discussing the success factors, he said that the system is multilayered and includes appellate and trial courts, court clerks and administrators and information technology representatives. He said this is a detailed, hands-on and adaptive approach to project management that supports the highest levels of the judiciary. An e-filing time line was given, illustrating that 100% of statewide civil findings will be able to be e-filed by December 2012.

Mr. Prisoc gave a step-by-step program tutorial. He illustrated the options while using the system, including viewing the case detail, case events, case disposition, case warrants and judges' notes. He said that New Mexico is among the first states to use e-filing on a statewide basis, and he said that many states are using Odyssey on some level.

Mr. Prisoc discussed the benefits to the filing community of using this system, including reduced delivery costs, a quick e-filing process, improved document control and security and tracking. In sum, he said e-filing saves time for attorneys and the courts, reduces lines in the

courthouse, reduces physical filings or scanning of documents and reduces error handling for all parties involved. He said that the quantified savings to the courts are still being calculated.

Committee members asked for clarification and discussed several issues with the system.

Judicial Reengineering Commission: Report and Recommendations

Chief Justice Daniels said he met with the National Center for State Courts, a national think tank, to discuss reengineering New Mexico's judicial system. He said the court appointed an 18-member commission with members representing all branches of government. The group was tasked to study how to improve what the courts do in any capacity and on any level. He explained that there was no predetermined goal. Chief Justice Daniels said that the process has taken one year, and the commission has completed its report.

Chief Justice Daniels elaborated on the commission's recommendations. The first initiative is traffic citation reform. Giving an historical perspective, he explained that since automobiles had not been not invented as the original court system was modeled, it was not designed to handle traffic citations. He explained that it may not make sense to treat traffic citations the same as criminal proceedings, for they burden the courts. Mr. Pepin stated that the recommendation is to change the entire traffic citation system and eliminate the Motor Vehicle Division's involvement. Mr. Pepin discussed bill draft #8, which is a constitutional amendment allowing the legislature to determine where appeals from courts lower than the district court would go. Right now, the Constitution of New Mexico demands that all such appeals go to district court. This amendment would allow the legislature to find a better way to handle these appeals. Chief Justice Daniels stated that bill draft #9 amends the traffic code to allow more items to be treated as penalty assessments rather than criminal misdemeanors.

Chief Justice Daniels explained the second initiative, a best practices committee to identify and implement best practices for case management. The third initiative, to merge municipal courts into magistrate courts on a voluntary basis, was also explained by Chief Justice Daniels. He said this would reduce the redundancy of magistrate and municipal courts, for both courts hear the same types of cases while both incur infrastructure and operating costs.

Video proceedings was the fourth initiative reviewed by Chief Justice Daniels. He said the AOC has developed a strong and accurate two-way video and audio communications network within the courts for video arraignments in most magistrate courts as well as for statewide meetings and training of court personnel. Despite the possible limitations of the constitutional right to confrontation, the commission believes that the expansion of this system of video proceedings would allow a great deal of litigation, short of trial, to take place in this manner. The committee was given a broad overview of the fifth through ninth initiatives by Chief Justice Daniels.

Committee members asked questions and discussed policy options. Some members offered suggestions on several initiatives, and a few discussed the choice of forum in DWI cases and the

costs of subsequent incarceration. Chief Justice Daniels and Mr. Pepin answered questions and joined the discussion on various issues.

Alternative Dispute Resolution (ADR) Initiative in the Courts

Edward L. Chavez, justice, New Mexico Supreme Court, and chair of the Supreme Court ADR Commission, stated that increasing the resolution of cases by ADR in New Mexico is necessary. He discussed court-annexed ADR, mediation and arbitration. Justice Chavez discussed the one-year study that was done around the state and in different courts that found that the use of court-annexed ADR increased settlements and dispositions while decreasing costs. Justice Chavez stated that the surveys taken of lawyers indicated that 51% said it would help in criminal cases and 63% said it should be mandatory in civil cases. He discussed the increased number of pro se filings, especially in domestic relations cases, and talked about the need for uniformity in guidelines for ADR in New Mexico.

Committee members echoed the sentiments of Justice Chavez and discussed the authority of the New Mexico Supreme Court to require ADR for litigants statewide, the superintending control powers of the New Mexico Supreme Court and the Supreme Court ADR Commission developing uniform guidelines. Justice Chavez stated that the courts prefer to enact change with a scalpel rather than with a machete and said he expects all courts to implement ADR at some point.

Public Comment

There was no public comment.

Friday, October 21

Crossroads for Women: Path to Successful Reintegration

KC Quirk, executive director, Crossroads for Women, explained that the organization is located in Albuquerque and is a provider of housing and reintegration services for women who are released from prison. She gave a brief background of the organization, stating that it was founded in 1997 by Elizabeth Simpson with a \$75,000 case settlement and designed to address the trend that women released from prison were returning to prison shortly after release. Ms. Simpson discovered that the reason for recidivism is that women were leaving prison without a safety net. Ms. Quirk said that the women released from prison were homeless, addicted and had cognitive disabilities due to physical abuse. She elaborated, stating that national data illustrate that 80% of female inmates are survivors of domestic abuse and sexual assault. She said this trauma results in posttraumatic stress disorder, low self-esteem, violent tendencies and impaired social relationships. Ms. Simpson conducted research and developed several programs for the women to partake in and established a 12-bed, six-month intensive reintegration program for women released from prison. Ms. Quirk said the women live and engage in programming together, yet the programs are staggered. She said the staggering fosters a "buddy" program that encourages newcomers to complete the program. Ms. Quirk emphasized the critical need of establishing relationships with the women while they are incarcerated and after they graduate

from the program. She said that 90% of the women that have completed the program have not returned to prison and that those who have returned to prison are returning for parole and probation violations.

Concerning funding, Ms. Quirk said that the programming and housing costs about \$60.00 a day per person. She said that funding is a constant challenge. She gave an example, stating that the mental health needs many of the women are struggling with exceed the organization's capabilities because an on-site psychologist is not affordable. She said the operating budget is under \$1 million and funding sources include the federal Department of Housing and Urban Development, United Way, City of Albuquerque, Bernalillo County, New Mexico Behavioral Health Services and Medicaid.

Responding to several questions posed by committee members, Ms. Quirk said that the mental health redesign of Medicaid eliminated niche providers, such as Crossroads for Women, from being able to bill Medicaid for case management. She said that Senator Dede Feldman is working with Crossroads for Women to secure alternate funding. Committee members engaged in conversation with Ms. Quirk about this issue and a suggestion was made to look into community corrections funding.

Approval of Minutes

The minutes of the previous meeting were adopted by the committee.

Legislative Proposals from the Attorney General

Gary King, attorney general of New Mexico (AG), briefly explained each of the 11 bill drafts presented to the committee. Members of the committee inquired about issues found within the bills, discussed policy options, clarified language and went through sections of the bills.

Reporting of contributions and expenditures in elections was discussed. Phil Baca, assistant AG, highlighted the changes in this bill as compared to last year's version. There was a discussion on the role of the secretary of state. Seth Cohen, assistant AG, went over the amendments to the Fraud Against Taxpayers Act. The Mortgage Fair Foreclosure Act was explained, and the AG discussed some of the problems with foreclosures. AG staff elaborated on the legislation and a discussion ensued with committee members on protection of citizens. Another bill to prohibit texting while driving was discussed, and AG King stated that this is a leading cause of motor vehicle accidents. The AG also discussed two sex offender bills, and some members expressed concern about these.

Committee members discussed with the AG the house of representatives' subpoena power in impeachment proceedings. There was a concern that the AG's Office would not provide requested and subpoenaed information to the Investigatory Subcommittee of the House Rules and

Order of Business Committee. A discussion on the separation of powers, constitutional officers and the differences between impeachment proceedings and criminal investigations ensued. The AG stated he thought the subpoena was too broad.

Due to time constraints, Senator Wirth suggested that the remainder of the presentation on consumer lending be delayed until the next meeting. AG King agreed.

Corrections: Welcome to Acting Secretary and Update on Request for Proposals (RFP) for Medical Services

Alfonso Solis, acting secretary of corrections, and Gregg Marcantel, acting deputy secretary of corrections, ensured the committee that the corrections system is secure. The Corrections Department has found minor problems, but they are being resolved.

In response to questions concerning the medical services RFP, Secretary Solis informed the committee that discussions and disagreements about the contract have taken place. He said that medical services are important, and he anticipates the RFP to be issued on October 28, 2011. He added that food and medical care are the two most important services that can be provided and that they are the two things that inmates want the most. He declared that he has no interest in becoming the secretary of corrections, but he said that the prisons are the state's highest liability. Secretary Solis told the committee that complaints from prisoners' families will never stop, and the question that needs to be asked constantly is whether or not those complaints are substantiated. A request was made for the department to provide a list of names and phone numbers of important department staff.

Committee members inquired about various issues, including the status of penalty assessments for contractual violations and probation and parole officer workload, overtime and vacancies. They also questioned the acting secretary and acting deputy secretary about Dismas house and the department's community corrections programs and were assured that the department will provide follow-up on these issues. Secretary Solis stated that the department is having problems with in-house paroles and is working with the governor's office on this issue. He said he is a firm believer in community organizations, for they are cheaper than building more beds within the prison system. He added that if there is a way to divert these people and help them, it should be done.

Secretary Solis indicated that the governor is planning to appoint a new secretary within the next two weeks. Committee members discussed bringing in the newly appointed secretary of corrections to the next meeting.

Adjournment

There being no further business before the committee, the fourth meeting of the Courts, Corrections and Justice Committee adjourned at 1:20 p.m.

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

November 14-15, 2011
Room 307, State Capitol

D The fifth meeting of the Courts, Corrections and Justice Committee was called to order by Senator Peter Wirth, co-chair, on November 14, 2011 at 9:10 a.m. in Room 307, State Capitol.

Present

Rep. Al Park, Co-Chair
Sen. Peter Wirth, Co-Chair
Rep. Gail Chasey
Rep. Zachary J. Cook
Sen. Mary Jane M. Garcia
Rep. Nate Gentry
Sen. Clinton D. Harden, Jr.
Sen. Linda M. Lopez
Rep. Antonio "Moe" Maestas
Sen. Richard C. Martinez
Rep. William "Bill" R. Rehm
Rep. Mimi Stewart

Absent

Sen. Rod Adair
Rep. Joseph Cervantes
Rep. David L. Doyle
Sen. John C. Ryan

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Brian F. Egolf, Jr. (11/15)
Rep. Dennis J. Kintigh
Sen. Carroll H. Leavell (11/14)
Rep. W. Ken Martinez
Sen. Cisco McSorley
Rep. Bill B. O'Neill
Sen. Sander Rue
Rep. Sheryl Williams Stapleton
Rep. Richard D. Vigil (11/15)

Rep. Cathrynn N. Brown
Sen. William H. Payne
Sen. John Pinto
Sen. Michael S. Sanchez
Sen. David Ulibarri

Guest Legislator

Rep. Rick Miera (11/14)

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

Staff

Maha Khoury, Staff Attorney, Legislative Council Service (LCS)
Leslie Porter, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of the handouts are in the meeting file.

Monday, November 14

Patients' Rights

Deborah and Melvin Martinez, Katie Martinez's parents, said that Katie was consistently misdiagnosed by emergency room medical staff and was sent home. Due to worsening conditions, Katie was admitted to intensive care, Ms. Martinez said, where she died while in the care of one of the locum tenens physician assistants, who performed surgery on her.

Dan Weaks, policy consultant, New Mexico Hospital Association (NMHA), admitted that the situation was tragic and informed the committee that all practicing physicians in New Mexico have the same credentials, regardless of whether they live in New Mexico or are locum tenens. He said the NMHA is willing to participate in the task force set forth in House Memorial 80 but informed the committee the NMHA has not been contacted by the New Mexico Health Policy Commission (NMHPC) to do so. He surmised that since the NMHPC's funding was drastically reduced, it was unable to convene the task force.

Lynn Hart, executive director, New Mexico Medical Board (NMMB), reiterated that locum tenens are licensed in the same manner as physicians who live in New Mexico. She said locum tenens endure a tedious process to obtain the full, unrestricted license issued by the NMMB. However, she said, the NMMB welcomes increased scrutiny. Responding to several inquiries, Ms. Hart said locum tenens work in private practices and in hospitals and explained that hospitals decide whether or not to inform patients that they are being treated by locum tenens.

Committee members expressed their concern and frustration that the task force, to date, has not convened. Kathy Love, the attorney who represented the Martinez family, said she has tried to convene the task force but felt it was inappropriate for her to do so. Ms. Love emphasized that Katie Martinez was treated by a locum tenens physician, who was not familiar with hospital procedures and therefore performed surgery in a room that did not reach code for that type of surgery. When complications occurred, the locum tenens physician was without the resources needed to save Katie. She said New Mexico needs a system to ensure hospital policies and procedures are reviewed and to ensure that locum tenens physicians are trained in those policies. She added that the Martinez family was active in Katie's care and was not informed that Katie was being treated by a locum tenens physician.

Members of the committee emphasized the critical need for locum tenens to serve in rural New Mexico.

HJM 17 Task Force Recommendations to Reduce the Number of People with Mental Health Disorders Who Are in Detention or Who Require Law Enforcement Intervention

Representative Miera explained that since New Mexico is lacking adequate mental health facilities, most individuals who have mental health issues are incarcerated, which is the worst place for them to receive ongoing care. He said that HJM 17 brought the correct people together to address the issue and he strongly believes in the suggestions that will be made in this presentation. He said legislation is not required at this point.

Alfonso Solis, chief of police, Roswell Police Department, offered an anecdote of his first, and near-death, encounter with a mentally ill individual. He stated that it is not the Corrections Department's (CD) mandate to provide long-term treatment for mental illnesses, but to stabilize it. He agreed that follow-up care is lacking.

Nils Rosenblum, M.D., psychiatrist, Crisis Intervention Team, Albuquerque Police Department, stated that there is a large group of people who are in need of treatment for mental illnesses. He said the lack of an adequate mental health care system has resulted in a greater cost to society, due to incarceration costs, for example. He told a story of a homeless man in Albuquerque who was often brought to jail, exacerbating his mental illnesses. Dr. Rosenblum told the committee that the police and social workers would separately work with the man, without any notable results. He said that once the police and the social workers cooperated, the man was admitted to a hospital and treated. This cooperation has resulted in the once-homeless man renting his own apartment, and this is an example of how the system can work. He stated that amending funding mechanisms is the key because services follow the incentives — and the incentives are currently out of line with reality.

Grace Phillips, attorney, New Mexico Association of Counties (NMAC), set forth the task force's guiding principles: develop peer-led and peer-driven services; provide least-restrictive environments; develop a crisis system to serve individuals with mental illness; develop trauma-informed, gender-specific, age-appropriate, culturally sensitive and language-appropriate mental health services, regardless of literacy; and have services available to all persons with serious mental illnesses, their families and their natural supports, regardless of age, socioeconomic or insured status. She went through the recommendations offered in the report.

Linda Roebuck Homer, CEO, Interagency Behavioral Health Purchasing Collaborative, said that HJM 17 has the support of the Behavioral Health Planning Council. She explained that Medicaid waivers add crisis services, such as respite and peer support, and this will alleviate pressure on emergency rooms because mental health issues tend to clog emergency rooms. She expressed support for a community plan.

Responding to an inquiry, Jeff Kingston, senior health administrator, Children, Youth and Families Department (CYFD), said that nationwide, respite care is the most requested service by families who have a child with a mental disorder. He said the program is funded by the CYFD and Medicaid.

Representative Miera said that the juvenile justice system should not be the best place for juveniles with mental disorders to receive mental health care, which it currently is. Dr. Rosenblum listed the hospitals around the state with mental health services and the beds, or lack thereof, available. Michael Hubert, consultant, Office of Consumer Affairs, Behavioral Health Services Division, Human Services Department, emphasized the need for collaboration when addressing the issue of how to deal with and treat the mentally ill. Dr. Susan Cave, psychologist, responded to questions on Kendra's Law and stated that it cannot work without a whole network of services and treatment providers.

Responding to an inquiry, Ms. Roebuck Homer said that the effective use of community support can reduce hospital input of individuals with mental disorders by one-third but that if communities do not come together to help, this will not happen. Representative Miera said funding is an integral aspect, but the question is how to obtain it. He said if judges are provided with options on what they can order, the plan could take effect. Currently, the only option for judges is to place people with mental disorders who commit crimes in jail.

Members of the committee expressed their support for the recommendations and noted the lack of political will to enact them, due to the focus on conviction rates. Members observed that the state has lost sight of its commitment to serve the mentally ill and that a renewed commitment will carry a large price tag but will be less than current jail and corrections costs. Members also asked for points of clarification on terms used in the recommendations.

Committee members inquired about funding allocated to prevent mentally ill individuals from being in the criminal justice system. Representative Miera said county funding is available under the incarceration umbrella. Chief Solis informed the committee that sheriffs in counties lacking detention facilities are responsible for securing housing for these individuals. Ms. Phillips explained that the state currently has five mental health courts.

Committee members discussed several issues, including law enforcement agents faced with violent situations involving mentally ill individuals, Kendra's Law and the consolidation of existing services and cost savings.

Approval of Minutes

The minutes of the previous meeting were approved.

Update on the County Detention Facility Reimbursement Act

Linda Freeman, deputy director, New Mexico Sentencing Commission (NMSC), explained the 2007 act and how it categorizes the types of felony offenders into three groups: a dual

supervision offender as someone who is serving a term of probation in addition to parole; a parolee as someone who is arrested for a parole violation; and a felony offender as someone who has been sentenced and who is waiting for transport to a correctional facility. Ms. Freeman explained that the act breaks the funding into two categories. The first 70% is distributed by the NMSC, based on a three-year rolling average of an annual survey of the number of felony offenders in each facility on June 30 of each year. She said the remaining 30% is for the counties and is distributed by the Local Government Division of the Department of Finance and Administration. She said funding began at a high of \$5.1 million and current funding is \$3.3 million. Ms. Freeman stated that the NMSC has entered into a contract with the NMAC to replicate the length-of-stay study in county facilities and look at how long individuals stay in county facilities pre- and post-trial, particularly individuals who are sent to state facilities.

Reducing the Burden on County Detention Facilities (HJM 4)

Tony Ortiz, director, NMSC, told the committee that the County Detention Facility Reimbursement Act arose due to research and data reported to the legislature about felony offenders. He discussed the length-of-stay study being conducted by the NMSC and said felony offenders stay in county facilities an average of 19 days after sentencing before being transferred to a state corrections facility. Mr. Ortiz said the NMSC will also research mental health services in county facilities. He said the goal is to have preliminary findings in January 2012, prior to the legislative session, and to publish the report in June 2012.

Steven Kopleman, risk management director and general counsel, NMAC, said this issue has been a problem for 10 years or more. He said there has been \$21 million paid in liability claims dealing with detention centers within the past three and one-half years. He said counties spend \$220 million annually on detention operations. Mr. Kopleman said that part of the problem is the fiscal obligation on the counties. He gave an example of a contract that Doña Ana County has with a mental health hospital that costs \$700 a bed per night. He said felons are overflowing into the county systems, when they should be housed in the state system. He said that many individuals are brought into the system on probation violations and said that the counties incurred \$19 million last year for housing probation violators. Mr. Kopleman stated that probation violators are brought into the county system prior to seeing a judge and stay an average of two months, due to the court backlog. He discussed how people are jailed on petty misdemeanors and traffic violations. He offered an example of one municipal judge who found 500 warrants for unpaid traffic violations, resulting in the issuance of hundreds of bench warrants. He emphasized that this problem cannot be solved by the counties or by the legislature alone and that it is worsening annually.

Tom Swisstack, deputy county manager of public safety, Bernalillo County, clarified that what he will discuss is factual and should not be misinterpreted as complaining. He said 68% of the individuals in the Metropolitan Detention Center (MDC) have substance abuse and mental health issues, resulting in a longer stay. He said the MDC processes 40,000 cases a year. Mr. Swisstack reminded the committee that this growing epidemic is a shared responsibility. He offered the following figures for the MDC: a bed capacity of 2,235 is currently housing a

population of 2,703, 793 of which are 364-day commitments, consisting of 574 felons and 219 misdemeanants, and around 375 prisoners have been awaiting adjudication for over a year. He said it costs Bernalillo County \$17 million a year to house the 364-day commitments. He said nonviolent offenders do not need to be incarcerated to be held accountable and suggested researching how the individuals housed for 364 days can be kept in the community to work while wearing ankle bracelets. He stated that enough memorials and studies have been conducted and it is time to make decisions, such as a pilot program to address issues in a controlled environment. He explained that the county is paying on a \$15 million settlement. Mr. Swisstack clarified that he is cognizant of political fallout and that the public needs to be provided a sense of coverage and safety, but he wonders what the public would say about another \$350 million complex being built.

Mr. Ortiz explained that the NMSC's role on this committee is to gather data and evidence. He said that the length-of-stay study collected data from the seven county detention facilities, representing more than two-thirds of the offenders in New Mexico. He explained that the study inquired about: how long the pre- and post-trial stays are; the highest charge an individual is booked for; how many individuals are staying in a county facility post-judgment and post-sentence; and how many individuals are transferred to the CD.

Arthur W. Pepin, director, Administrative Office of the Courts, stated that he shares the frustration expressed by other members of the task force because these issues are often discussed and then forgotten. He explained that a big part of the problem is traffic offenses and reform is needed to keep most traffic offenders out of jail. He reminded the committee of legislation proposed by the judiciary to address part of this problem. He discussed how the task force is studying, with the NMAC, ways in which to reform the traffic citation system, and said it needs more time to look into the different parts of this issue. Another problem is that probation violators need to be processed more quickly, he said, rather than being housed in detention centers while awaiting hearings. He stated that Bernalillo County has alternatives to incarceration, such as work release and treatment programs for nonviolent offenders. Mr. Pepin reminded the committee that the courts have been leaders in automating systems and seeking alternatives to incarceration and that they have lost personnel and funding for problem-solving courts and are short on judges. He stated the importance of providing judges with options other than detention and discussed the possibility of changing the warrant enforcement unit in magistrate court to a collection agency.

Mr. Pepin went over the recommendations in the report, including filing judgment and sentences contemporaneously with the judges' issuance of the criminal sentence; restoring funding for problem-solving courts; sentencing all felons to the CD and not to local detention centers; probation violation programs; data-sharing among criminal justice agencies; competency evaluations; early plea programs; plea cutoff policies; active case flow management; decriminalization of traffic cases; phone reminders of court dates; and criminal e-filing. He said these proposals are for the short, medium, and long terms.

Committee members asked questions of the panel and discussed policy options. Committee and panel members discussed the points and recommendations in the report and other issues relating to the burden on county detention facilities.

Revisions to the Space Flight Informed Consent Act

Robert H. Desiderio, attorney, Sanchez Mowrer & Desiderio PC, and New Mexico counsel for Virgin Galactic, went over the proposed legislation and explained the changes made to the act and why they are needed. Tom Horan, lobbyist for Virgin Galactic, discussed what other states have done and how New Mexico needs to compete with other states. He explained how providing immunity and reducing liability exposure, as proposed by the changes, would bring manufacturing companies to the state.

Jim Gillman, New Mexico Trial Lawyers Association, stated that the federal legislation, found in 42 U.S.C. 1451, has no immunity provisions and that the purpose of the federal act is to allow states to take over some of the role and missions of the National Aeronautics and Space Administration. He stated that the original act was not meant for recreational spaceport use, but for science. He said the technology to be used for the spaceport is well-developed and there is no good reason for immunity.

Committee members asked for points of clarification in the bill draft and discussed the various levels of immunity from liability that could be established.

Secretary of Corrections: Welcome and Update

Gregg Marcantel, secretary of corrections, provided a brief history of his experience and education and introduced his staff. Representative Park extended his, and the committee's, support and thanked him for the golden key letter.

Members of the committee welcomed Secretary Marcantel and raised several issues to be addressed, such as: support for the crime lab; returning the New Mexico license plate industry to New Mexico; Dismas House; safety within the prisons; procurement for public and private prisons; parole; and progress on the request for proposals for health services.

Public Comment and Recess

There was no public comment. The committee recessed at 5:10 p.m.

Tuesday, November 15

Senator Wirth reconvened the meeting at 9:15 a.m.

Consumer Lending Update

Gary King, attorney general of New Mexico (AG), showed a video to the committee about consumer lending, such as installment, payday and car title loans. The video depicted how many

consumers were injured and felt defrauded by the industry. AG King briefly discussed two lawsuits his office filed in 2009 against consumer lending companies, based on substantive and procedural unconscionability and the Unfair Practices Act. These companies were charging yearly interest rates of 520% to 1,500%, and permanent injunctions will be entered in those cases. AG King suggested that the legislature should set a maximum interest rate and discussed how the industry avoids regulation. Karen Meyers, assistant AG and director, Consumer Protection Division, Office of the AG, explained procedural and substantive unconscionable practices and the legal bases for the lawsuits.

Committee members engaged in discussion with AG King and Ms. Meyers on various consumer lending issues and the legal bases for the lawsuits, including unconscionability, the Uniform Commercial Code and the Unfair Practices Act. Many members questioned why the AG was not proposing legislation on this issue and urged the AG to propose legislation to address this problem in the upcoming session.

Revisions to the Sale of Recycled Metals Act

Leo Baca, director, New Mexico legislative affairs, CenturyLink, Inc., explained why metal theft is a problem nationwide and in New Mexico. He said many entities are affected, including: state and local governments; law enforcement agencies; the telecommunications, electric, construction and oil and gas industries; property owners, such as Walmart; and others. He said each theft of a CenturyLink, Inc., copper cable costs \$7,000. He provided a monthly metal theft report map for the month of May 2011. He explained the multi-industry effort to improve the metal theft laws. Suggestions for improving the law included: titanium as a regulated material; allowing the metal recycler to photograph the seller and the materials; and requiring metal recyclers to be licensed.

Mike Sindelar, detective, San Juan County Sheriff's Office, said that metal is stolen whether or not it is nailed down and that metal theft is directly tied to the import and production of methamphetamine. He said the costs of metal theft are passed down to the consumer and that the potential exists for an impact on the gas supply system. He informed the committee that the best time to target the problem is at the point of sale. Detective Sindelar said most metal recyclers are honest dealers and do not buy stolen goods, but there are a few that consistently do.

Minda McGonagle, lobbyist, Responsible Metal Recyclers Initiative, explained that the initiative is a group of scrap recyclers whose intent is to provide a beneficial service to the state, based on ethics, sound business principles and being a good neighbor within the community. She said the unlawful businesses need to be known and said this legislation provides the tools for law enforcement to slow down the illegal business. She briefly discussed the database for reporting theft, in which individuals, companies and law enforcement agencies are involved.

Committee members discussed the bill draft and asked for clarification about the database; compliance; funding; action taken once theft has been reported; and the location of most metal theft. J. Dee Dennis, Jr., superintendent, Regulation and Licensing Department (RLD), and Mary

Kay Root, deputy superintendent, RLD, were at the meeting and addressed questions by committee members.

Rights of Public Safety Employees

Carter Bundy, New Mexico legislative director, American Federation of State, County and Municipal Employees (AFSCME), went over the proposed legislation, which expands the Peace Officer's Employer-Employee Relations Act to include all public safety employees and provides more protections for the employee in an internal investigation proceeding.

Mr. Bundy explained that these amendments will reduce problems that arise during internal investigations and will better protect employees' rights. Other persons supporting the bill included Steve Perkins, corrections officer at MDC, Karen Bates, probation and parole officer, Vanessa Rios, CD, and Sam Chavez, AFSCME representative. They discussed how public safety officers are different from other employees. Mr. Chavez stated that corrections officers need better protections. Mr. Bundy indicated that ideas for the changes in the law were taken from a Maryland law protecting corrections officers.

Members of the committee asked for points of clarification in the bill draft and discussed policy options.

Endorsement of Legislation

Committee members discussed and voted on legislation for endorsement. Bill drafts 1 through 9, 13 through 15 and 20 were endorsed.

In closing, Representative Park and Senator Wirth thanked committee members and committee staff. Senator Wirth congratulated Representative Park on his decision to run for the Public Regulation Commission. Committee members thanked the co-chairs for consistently respecting the times on the agenda and for their leadership, fairness and respect in running the committee.

Adjournment

There being no further business before the committee, the Courts, Corrections and Justice Committee adjourned for the interim at 12:25 p.m.

Legislative Proposals

COURTS, CORRECTIONS AND JUSTICE COMMITTEE
LEGISLATION PROPOSED IN THE 2011 INTERIM

- 1. Modify the Campaign Reporting Act to Address Constitutional Issues and Require Reporting of Independent Expenditures.**
- 2. Modify Requirements for Public Financing of Elections.**
- 3. Create New Judgeships.**
- 4. Judicial Nominating Commission Fund.**
- 5. Provide Distribution from the Liquor Excise Tax to Drug Courts.**
- 6. Modify Funding Sources for Judicial Retirement Funds.**
- 7. Appropriation for Enhanced Background Investigations for the Bernalillo County Metropolitan Court.**
- 8. Constitutional Amendment Removing Requirement of Appeals to District Court.**
- 9. Provide Penalty Assessments for Certain Violations of the Motor Vehicle Code and Clarify Certain Sections.**
10. Electioneering Communications Reporting of Contributions and Expenditures.
11. Procurement Code Revisions.
12. Governmental Contractor Disclosures and Prohibitions.
- 13. Amendments to the Fraud Against Taxpayers Act.**
- 14. Mortgage Fair Foreclosure Act.**
15. Prohibit Texting While Driving.
16. Prohibit Reproduction of Child Pornography Evidence.
17. No Notice Required for Prosecution of Certain Sex Offenses.
18. Prohibit Intoxication by Persons under Twenty-one Years of Age.
19. Revisions to the Family Violence Protection Act.
- 20. Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.**

21. Revisions to the Space Flight Informed Consent Act.
22. Changes to the Recycled Metals Act.
23. Public Safety Employer-Employee Relations Act.

(legislation endorsed by the committee is in **bold**)