

**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.