

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

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

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

PRESENT

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

ABSENT

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

Advisory Members

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

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

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

Staff

Maha Khoury
Evan Blackstone
Sarah Salazar

Guests

The guest list is in the meeting file.

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

Monday October 24, 2005

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

New Mexico Sentencing Commission: Data Report and Other Projects

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

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

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

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

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

Other Committee Business

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

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

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

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

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

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

Funding for the Public Defender and for Public Defender Contracts

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

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

Fee Increases for the Department of Public Safety

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

Executive Session: Update on Legal Issues

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

Tuesday, October 25

Report from the Judiciary: Unified Budget and Legislative Initiatives

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

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

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

Surface Landowner Protection for Oil and Gas Operations

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

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

Adjournment

The committee adjourned at 12:10 p.m.