

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

**July 1, 2008
Continuing Education Building
University of New Mexico
1634 University Blvd. NE
Albuquerque**

**July 2, 2008
Metropolitan Assessment and Treatment Services (MATS)
5901 Zuni SE
Albuquerque**

The second meeting of the Courts, Corrections and Justice Committee was called to order by Senator Cisco McSorley, co-chair, at 10:15 a.m. on Tuesday, July 1, 2008, in the Continuing Education Building at the University of New Mexico in Albuquerque.

Present

Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Joseph Cervantes (July 1)
Rep. Gail Chasey (July 1)
Sen. Carroll H. Leavell (July 2)
Rep. Antonio "Moe" Maestas (July 1)
Sen. Richard C. Martinez
Sen. Lidio G. Rainaldi
Rep. William "Bill" R. Rehm
Rep. Peter Wirth
Rep Eric Youngberg (July 1)

Advisory Members

Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia
Sen. Linda M. Lopez
Rep. Jane E. Powdrell-Culbert
Rep. Sheryl Williams Stapleton (July 1)
Rep. Mimi Stewart

Absent

Rep. Al Park, Co-Chair
Sen. Clinton D. Harden, Jr.

Rep. Elias Barela
Sen. Kent L. Cravens
Sen. John T.L. Grubestic
Sen. Gay G. Kernan
Rep. W. Ken Martinez
Sen. William H. Payne
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Thomas E. Swisstack
Sen. James G. Taylor
Rep. Teresa A. Zanetti

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

Guest Legislators

Rep. Ray Begaye (July 1)

Rep. Nick L. Salazar

Sen. Sue Wilson Beffort (July 1)

Rep. Thomas C. Taylor (July 1)

Staff

Maha Khoury

Jennie Lusk

Aldis Philipbar

Guests

The guest list is in the original meeting file.

Tuesday, July 1

Report and Recommendations of Governor Richardson's Prison Reform Task Force

John Bigelow, chair, Prison Reform Task Force, began by outlining the task force's report contents. He said a drafting committee was formed to put the report together and comments were received from task force members. He added that there were some grammatical errors, but no substantive errors, and that the report is available on the governor's website. Mr. Bigelow said that some subjects were not discussed because they would have taken longer than the time allowed. The task force concentrated on specific issues. It made recommendations with a view toward cutting down on re-incarceration rates and lowering the costs of corrections.

Mr. Bigelow reviewed the various categories that the recommendations fell into, including: pre-incarceration, incarceration, re-entry and transition. He added that all of the recommendations were made with the idea of increasing public safety. He stated that 85 percent of New Mexico's inmates have mental health issues. Mr. Bigelow added that the national three-year recidivism rate is 52.7 percent, while the three-year recidivism rate in New Mexico is 46.7 percent.

In order to implement the recommendations, the task force recommended that the governor create by executive order the New Mexico Council on Prison Re-Entry and Transition, a new re-entry division within the Corrections Department, re-entry centers and a work force development bureau (a combination of the education and industries divisions) and that he change the name of the department to the New Mexico Rehabilitation and Corrections Department. The department should promulgate the philosophy that "re-entry begins upon arrest".

Joe Williams, secretary of corrections, said that implementing the recommendations will take the cooperation of all agencies to be effective. He said that the recommendation to combine the education and industries divisions was one of the more interesting suggestions. Mr. Williams

added that the New Mexico Sentencing Commission is getting ready to release a report on why there has been a decline in the prison population in New Mexico.

John Wheeler, crime policy advisor to the governor, said that virtually all of the recommendations from the public were issues that had already been identified by the task force. He called it a resounding endorsement of the process and said he was happy to share the task force results with the committee, the public and the visitors from Washington, D.C., and Kansas.

Senator McSorley asked members of the committee who served on the task force to share their thoughts. Representative Rehm said that he felt the task force was narrowly directed and did a good job of staying on track. Representative Cervantes added that he thought there was a fair opportunity for everyone on the task force to contribute, despite its large size.

The panel then addressed the questions and concerns of the committee.

The committee recessed for lunch at 12:30 p.m.

The Success of New Mexico Drug Courts

Justice Charles W. Daniels, New Mexico Supreme Court, said that lengthening sentences for criminals does not address root issues. Drug courts try to do something other than sending drug offenders to prison. The average drug court costs \$25.27 per day per client, whereas incarceration costs around \$81 per inmate per day. The recidivism rate of drug court graduates in New Mexico is 11.9 percent, better than the national average. Justice Daniels said that the program started small, with pilot projects that have expanded over the years. He also added that the program has been expanded to other kinds of specialty courts.

Justice Daniels then discussed the New Mexico Drug Court Advisory Committee. He said it had established a five-year plan that was adopted by the court. He added that the committee wants to make drug courts accessible to every person in New Mexico who needs one. He said the committee will work with the legislature to provide stable and predictable funding. He said that it will be submitting a request for \$1.6 million to establish new drug courts, but that money will eventually come back to the community.

Judge Richard Knowles, Second Judicial District Court, said that drug courts are working with the help and support of the legislature. The program is doing what was intended, it costs less than the alternative and it saves lives. Judge Knowles added that the courts want to try to get at least one drug court in every county.

Justice Daniels added that drug courts require thinking outside the box because they are unlike normal courts, where the judge determines a "winner". There is a lot of involvement in drug courts, including counseling and self-evaluation. He said the program is much more rigorous than an inmate lying on a taxpayer-paid bed.

How States Can Reduce Prison Populations and Save Taxpayer Dollars While Improving Public Safety

Richard Jerome, project manager, Public Safety Performance Project, Pew Center on the States (PCS), began by stating that 1 out of 99.1 adults in this country is behind bars. He said that the rise in the national prison population is not necessarily because of higher crime, but rather is due to change in policies. Right now, New Mexico is in the lowest fifth among the states in terms of prison growth. He said there has been a prison population growth, especially in the West. He added that probation and parole violators account for 60 percent of that growth, and the increase in the rate of incarcerated women (57 percent) is growing faster than men (34 percent). He said there has been a rise in age, meth-related cases and mental health problems.

Mr. Jerome said this is an exciting time in criminal justice because of advances in the science of behavior change, advances in supervision technology and broad public support for alternatives. He said there is now a trend toward managing for results, and he has seen bipartisan reform efforts due to budget pressures. He added that this effort is not always easy because many programs have up-front costs, but it is money that is wisely spent because it leads to increased safety and savings.

Keven Pellant, deputy secretary, Community and Field Services, Kansas Department of Corrections, explained the steps that Kansas has taken toward alternatives to incarceration. She said that in Kansas, a steep incline in the projected prison population scared legislators, who then requested alternatives from the corrections secretary. She said the department started collecting consultants and asking them to look back over the last 20 years. They found that Kansas was very good at containment, but did not do so well in helping people be successful after release. Ms. Pellant said the department needed to be very targeted in asking for help from the legislature, so they looked at parolees who were failing and saw that the department was setting them up to fail. The department changed its vision to focus more on success for offenders after release, creating greater public safety and saving public money. Its goal was to have a certain percentage of adult and juvenile offenders successfully reintegrate into the community. It researched various areas and found that offenders have a lot of things to reintegrate to (friends, family, new jobs, etc.), and many get overwhelmed. She said reasons for failure can often be anticipated (poor motivation, lack of job skills, learning disabilities, negative peer pressure, lack of housing options, substance abuse issues and health or behavioral health issues). Ms. Pellant said the department held focus groups with staff to review findings and discovered that a simple handshake can make a world of difference in building a relationship with an offender and in helping an offender's transition. She said that rather than waiting for offenders to fail, the department is trying to promote completion of supervision systematically. She added that a focus on prevention can also alter one's approach to work. The department learned to work on reintegration before an offender left prison. She said it found the most effective programs to be:

- multimodal and integrated;
- cognitive-behavioral in nature;
- skills-oriented;
- linked with parallel services in the community; and

- matched based on risk, needs and responsiveness.

Low-risk offenders with reduced supervision were more successful. Ms. Pellant identified some promising practices, such as identifying triggers for offenders to prevent recidivism and providing healthcare. She said that this new plan has allowed Kansas to put off building a new prison until 2016 and has reduced annual jail per diem expenditures. She said the goal is a 50 percent reduction. She added that it is necessary to identify how New Mexico wants to do this business and what it wants to accomplish.

Alison Lawrence, criminal justice policy associate, National Conference of State Legislatures (NCSL), said that legislatures have been instructing courts and corrections to use evidence-based practices. She said that states have been looking at preventing recidivism and are targeting specific populations to keep those groups out of prison. Ms. Lawrence added that states are looking at re-entry and working with targeted offenders. She said that legislatures are instructing prisons to assist in creating individualized reintegration plans and creating and expanding substance abuse and work force training programs upon release.

Jake Horowitz, senior associate, Public Safety Performance Project, PCS, illustrated a couple of strategies in two states, but added that one cannot just transfer a strategy to New Mexico and hope it will work, because every state is unique. He began with Texas, stating that between 1983 and 1997, the state spent millions of dollars on new prisons, and 10 years later, it was facing the need to build another prison. So Texas took a serious look at alternatives, including: inpatient and outpatient beds; intermediate sanctions; reduction in prison terms; incentives to reduce probation failures; and expanding drug and other specialty courts. The alternative programs are projected to save the state hundreds of millions of dollars over the biennium and eliminate the prison bed shortfall by 2011.

Mr. Horowitz then discussed Arizona, stating that it has the highest crime rate in the country. Arizona spends around \$100 million per year to incarcerate probation violators, 79 percent of whom are drug or property offenders. Governor Janet Napolitano signed SB 1476, which creates performance incentives for reducing probation failures.

The panel then addressed questions and concerns of committee members and other participants.

Drug Policy Alliance Update

Reena Szczepanski, director, Drug Policy Alliance, said that the alliance's goals include reducing death and disease, protecting families, reducing crime and using resources wisely. She said it agrees with using evidence-based practices in prevention. It also supports the Prison Reform Task Force recommendations. Ms. Szczepanski said that New Mexico has been in the top three states for several years for the number of people who need substance abuse treatment. The alliance strongly supports re-entry proposals and supports "banning the box", namely, the proposal to eliminate conviction boxes on applications. She suggests that a list be provided

instead that prevents certain convicts from obtaining certain positions. She added that the alliance is looking at housing for offenders and enrollment in state benefits upon release.

There being no further business, the committee recessed at 4:45 p.m.

Wednesday, July 2

Update on the Federal Real ID Act and Options for New Mexico

Melissa Savage, program director, NCSL, said that the NCSL's position is that the Real ID Act is an unfunded mandate, and it is supporting legislation in Congress to repeal the act. According to the NCSL, Real ID will cost states \$10 billion to \$11 billion. She said the federal government originally estimated costs of implementation at \$14 billion, but the government is now saying that it will only cost \$4 billion. Real ID increases the cost of a driver's license. Most states are looking at ways to lower the cost to ensure that everyone can get a driver's license. States want everyone to have a license for several reasons, including identification purposes and to encourage acquiring auto insurance. Ms. Savage said that with the publication of the rules, states will have more time to enroll current driver's license holders. She also said that states will have the ability to determine which employees will have to undergo background checks.

Ms. Savage then addressed many of the concerns related to Real ID. She said that connectivity is an issue because states have to connect to federal databases to ensure that documentation is authentic. Privacy is also a concern, as well as the total cost, which is virtually unknown. She said that the states have been active in this area, with many states passing legislation prohibiting compliance with Real ID and a few passing legislation to implement Real ID. She said that 16 states have passed legislation urging Congress to repeal or amend the act. She said that citizens in states that are not in compliance will have to use a passport or military identification to fly or to enter federal buildings. Arizona and Idaho passed bills that prohibit compliance with Real ID and require state agencies that are being pressured by the federal government to comply to alert the legislature.

Ms. Savage said there are several approaches states can take on Real ID. They can prohibit compliance, appropriate funds to comply, pass a memorial urging Congress to repeal Real ID or wait and see. She said states can also implement enhanced driver's licenses like those in Washington State. She added that the NCSL will continue to monitor the Real ID Act.

Rick Homans, secretary of taxation and revenue, said that the executive is highly opposed to Real ID. He said that costs only continue to go up and that there are taxation and constitutional issues. He said there is clearly a lot of opposition across the country to the bill in its current form. He said he hears from the Motor Vehicle Division (MVD) of the Taxation and Revenue Department (TRD) that the government is pushing the homeland security issue. MVD clerks would need security clearances and would be required to look at every person coming in for a driver's license as a potential criminal, which puts the clerks in a difficult position. They are not immigration officials. He said there are training, security and enforcement issues. Mr. Homans said that New Mexico is in compliance with three of 15 compliance features in Real ID.

He added that, on top of the identified costs, the MVD has a 30-year old computer system that is on its last legs. He said there are hidden costs because the MVD has to interface with the federal system. He said that the New Mexico driver's license has already been modified for security purposes, including preventing identity theft.

Ken Ortiz, director, MVD, said that Real ID was originally attached to the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Tsunami Relief of 2005. It requires source documents to be digitally captured and requires citizens to bring documentation to prove who they are. This presents a problem for many citizens and residents, such as the elderly and the native populations. The federal government did appropriate \$79.5 million in grant funding for Real ID implementation, and New Mexico received \$500,000.

Limited Liability Companies' (LLC) Filing Requirements with the Public Regulation Commission (PRC)

Sandy Jones, commissioner and vice chair, PRC, discussed SB 168, which was introduced last session. He said there is a problem with corporations forming LLCs to avoid legal obligations. He said they need a mechanism for LLCs to report, and, as it stands now, it is difficult to track LLCs. Also, there is no way for the TRD to track down an LLC if there is a problem or complaint. Mr. Jones added that the lack of transparency in LLCs is disconcerting.

Senator Leavell also discussed the bill and said it concerned reporting by LLCs more than any other issue. He said that there is no tracking to see who is still in business and that is a great concern. He also said he would like the committee to consider making this piece of legislation a committee-endorsed bill.

On a motion made and seconded, the June minutes were unanimously approved.

Lunch

Tour of Bernalillo County MATS Facility

The committee was taken on a tour of the Bernalillo County Metropolitan Assessment and Treatment Services by Director Adan Carriaga.

Adjournment

There being no further business, the committee adjourned at 2:00 p.m.