

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

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

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

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

**PRESENT**

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

**Advisory Members**

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

**ABSENT**

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

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

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

**Staff**

Maha Khoury  
Evan Blackstone  
Liz Holmes

**Guests**

The guest list is in the meeting file.

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

**Monday, July 18****Call to Order**

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

**City of Albuquerque's DWI Ordinance**

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that allows seizure and forfeiture of vehicles of persons who have one prior DWI conviction or a license that has been revoked for DWI.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

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

**DWI Statistical Trends and Program Highlights**

Rachel O'Conner, DWI coordinator for the governor, briefed the committee members on DWI statistical trends and program highlights taking place in New Mexico. Ms. O'Conner said

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

### **FY 2004 State Inmate Population**

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

### **Report from the NMCD**

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

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

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

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

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

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

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

### **Private Prison Contracts and Costs**

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

### **Youth in Drug Court Program**

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

### **Tuesday, July 19**

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

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

#### **Adjournment**

Senator McSorley adjourned the meeting at 12:00 noon.