

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

**July 17, 2006
San Juan College
Farmington**

**July 18, 2006
San Juan County DWI Facility
Farmington**

The second meeting of the Courts, Corrections and Justice Committee for the 2006 interim was called to order by Senator Cisco McSorley, co-chair, on Monday, July 17, 2006, at 10:15 a.m. in the Henderson Fine Arts Center of San Juan College in Farmington.

Present

Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair (July 18)
Rep. Thomas A. Anderson
Rep. Gail Chasey (July 17)
Sen. Richard C. Martinez
Rep. Al Park (July 17)
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Sen. Leonard Tsosie

Advisory Members

Rep. Hector H. Balderas
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan (July 17)
Sen. James G. Taylor

Absent

Rep. Joseph Cervantes, Co-Chair
Sen. Carroll H. Leavell
Rep. Peter Wirth
Rep. Eric A. Youngberg

Sen. Ben D. Altamirano
Sen. Kent L. Cravens
Sen. Mary Jane M. Garcia
Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Sen. Linda M. Lopez
Rep. W. Ken Martinez
Sen. Gerald Ortiz y Pino
Sen. William H. Payne
Rep. Bill Rehm
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Thomas E. Swisstack

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

Staff

Maha Khoury
Evan Blackstone
Lindsey Bilovesky

Guests

The guest list is in the meeting file.

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

Monday, July 17**Call to Order**

Senator McSorley, co-chair, welcomed committee members and guests. Welcoming remarks were made by Dr. Carol Spencer, president of San Juan College, and a discussion ensued about Farmington with Mayor William Standley.

Overview of Identity Theft Laws, Identity Theft Passport and Security Freeze Legislation

Heather Morton, senior policy specialist for the National Conference of State Legislatures, described the definition of identity theft and current laws in place at the state and federal level and offered several policy options that could be implemented, including identity theft passport, security breach legislation and the security freeze.

Michelle Jun, staff attorney for Consumer's Union, explored one policy option mentioned by Ms. Morton, the security freeze. Ms. Jun described the security freeze and its purpose and uses, which are to protect consumers from identity theft. Ms. Jun discussed different security freeze laws in various states and the model security freeze law for the Consumer's Union. She also commented on whether a fee should be associated with the placement or removal of security freezes.

Eric Rosenberg, director of state government relations for TransUnion, a consumer reporting agency, explained that identity theft legislation is new and untested and that legislators should be wary when implementing such a new law. He also mentioned that identity theft legislation may not stop the crime from happening, that it may help criminals and that it poses an inconvenience to the consumer.

Senator McSorley invited public comment, and several audience members offered suggestions, stated their concerns and asked questions. Committee members discussed possible solutions and asked questions of the panel.

The committee recessed for lunch at 12:53 p.m. and reconvened at 1:55 p.m.

Methamphetamine Use and Identity Theft

Mark Drebing, deputy district attorney for the Second Judicial District, discussed how many identity theft cases are linked to methamphetamine use. He profiled one criminal as an example. Mr. Drebing also explained each part of the methamphetamine ring of people that steal identities and commit crimes related to identity theft.

Brian McGuire, detective for the White Collar Crime Unit of the Albuquerque Police Department, focused on how these types of crimes affect victims.

Sylvia M. Martinez, deputy district attorney for the Second Judicial District, described statistics regarding the link between methamphetamine use and white collar crimes. She explained that drug charges are always listed first, so many more cases involve identity theft than it at first appears.

Committee members discussed policy options and asked questions of the panel.

Committee Business

A motion was made and seconded to approve the minutes of the June meeting. The minutes were approved without objection.

Funding for Civil Legal Services

Justice Edward L. Chavez, New Mexico Supreme Court, explained that there is a great need for legal aid to New Mexicans. He added that only 20 percent of New Mexico's legal aid needs are met. He explained what legal aid programs are needed to be successful.

Sarah M. Singleton, chair for the Civil Legal Services Commission, emphasized that legal aid organizations must turn away two residents for every one that they can help. She asked for an appropriation of \$4 million from the committee.

Terence Gurley, managing attorney for DNA's People's Legal Services, Inc., profiled the types of people that use civil legal services. He said his organization usually handles cases involving family, employment, health and landlord/tenant issues.

Kathleen Brockel, executive director for Law Access New Mexico, explained what her organization does. She emphasized that the biggest problem the organization faces is a lack of full-time attorneys.

Fernando Macias, executive director for New Mexico Legal Aid, added that he only has 25 full-time attorneys and three part-time attorneys to help the entire state. He said one of the most important tasks that his staff performs is to actually go to court with clients.

Senator McSorley asked if any members of the audience had questions or comments on the topics presented. There were comments and questions by the audience. Also, many legislators asked questions of the panel and discussed their support of appropriating money for civil legal services. At the request of the panel, Senator McSorley made a motion to send letters to each congressional delegate for New Mexico as well as one to the Legislative Finance Committee and one to the governor asking for additional funding for the legal aid programs. The committee approved this motion unanimously.

San Juan Communities Initiative

James C. Henderson, Ph.D., chair of the Board of County Commissioners of San Juan County, welcomed everyone to San Juan County. He and Senator Steven P. Neville described some of what the communities initiative does. The initiative deals with gang violence,

methamphetamine addictions and other community problems. Senator Neville asked the committee for three pieces of legislation. First, he requested that there be a penalty for being under the influence of illegal substances. Currently, there is only a charge for possession and distribution. Second, he requested that mandated assessment/screening be required for felony and substance abuse suspects to help law enforcement gather information for substance abuse charges. Third, he requested that multiple misdemeanor charges for embezzlement be aggregated into one felony charge. Currently, criminals are encouraged to embezzle small amounts because there is little punishment.

Lindy Bennett, district attorney for the Eleventh Judicial District, further described the problems with the current embezzlement laws.

Legislators clarified several issues and discussed policy options.

Recess

The committee recessed at 5:25 p.m.

Tuesday, July 18

Call to Order

Senator McSorley, co-chair, reconvened the committee at 9:21 a.m. at the San Juan County DWI Facility and welcomed members and guests. Welcoming remarks were made by Dr. James C. Henderson.

DWI Update: Statistical Trends, New Programs, Persistent Problems and Proposed Solutions

Rachel O'Connor, the DWI czar for the Office of the Governor, described current DWI statistics for New Mexico. She also explained several projects that her office is undertaking, such as a public awareness campaign, the ignition interlock system, Drunkbusters and Liquor Control Act regulation changes. She mentioned New Mexico's national standing, brought up some ongoing problems and talked about possible legislation the governor may want introduced.

Michael Sandoval from the Traffic Safety Bureau of the Department of Transportation stood for questions with Ms. O'Connor.

Committee members asked questions and expressed their concern with many of Ms. O'Connor's initiatives. Members suggested that Ms. O'Connor, as the DWI coordinator for the governor, put an ignition interlock in her car so she knows what kind of problems interlocks can cause and so she can set an example for the policies she promotes. Members also discussed recommendations and policy issues.

DWI in San Juan County

Robert V. Mitchell, director for the San Juan County DWI Facility and administrator for the Alternative Sentencing Division, explained the three components of his facility: incarceration, treatment and aftercare. He emphasized how treatment is the key in helping people get their lives on track. He described the program's budget requirements and its better-than-average statistics for recidivism.

Keith McPheeters, sergeant with the Farmington Police Department, described the facility's public awareness campaign. He also explained how the campaign may have affected first-time offenders. He tied the campaign to positive statistics.

Judge William Liese of Farmington Municipal Court and Judge William A. Vincent of San Juan County Magistrate Court described their role in DWI cases and what they see in San Juan County. Two officers from the Farmington Police Department were present for questions.

A representative from the New Mexico Criminal Defense Lawyers Association, Barry Klopfer, stated that an intensive outpatient program, such as drug or DWI court, and other forms of pre-prosecution diversion would work better for many clients than a mandatory incarceration for 28 days, where clients may lose their children and jobs due to an inflexible systematic application of San Juan County's program.

Members asked questions and discussed policy issues, including the lack of data that would compare this program to the DWI court programs, ethnic issues and divisions in the county, and asked about data that would show convictions and the ethnicity of defendants.

A tour of the facility was given by Robert Mitchell to committee members and staff.

Adjournment

The committee adjourned at 1:50 p.m.