

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

**August 17-18, 2020  
Video Conference Meeting**

The second meeting of the Courts, Corrections and Justice Committee was called to order by Representative Gail Chasey, co-chair, on August 17, 2020 at 9:15 a.m. by video and audio conference via an online platform.

**Present**

Sen. Joseph Cervantes, Co-Chair (8/18)  
Rep. Gail Chasey, Co-Chair  
Rep. Eliseo Lee Alcon  
Rep. Deborah A. Armstrong  
Rep. Karen C. Bash  
Sen. Jacob R. Candelaria  
Rep. Dayan Hochman-Vigil (8/17)  
Sen. Linda M. Lopez  
Rep. Antonio Maestas  
Rep. William "Bill" R. Rehm  
Sen. Antoinette Sedillo Lopez

**Absent**

Sen. Gregory A. Baca  
Rep. Zachary J. Cook  
Sen. Sander Rue

**Advisory Members**

Rep. Alonzo Baldonado  
Sen. William F. Burt (8/18)  
Sen. Daniel A. Ivey-Soto (8/18)  
Rep. Georgene Louis (8/17)  
Sen. Richard C. Martinez (8/18)  
Sen. Bill B. O'Neill  
Rep. Patricia Roybal Caballero  
Sen. Mimi Stewart  
Rep. Christine Trujillo

Rep. Brian Egolf  
Rep. Doreen Y. Gallegos  
Rep. Tara L. Lujan  
Sen. William H. Payne  
Rep. Andrea Romero  
Sen. Peter Wirth

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

**Staff**

Mark Peralta-Silva, Staff Attorney, Legislative Council Service (LCS)  
Elisabeth Johnson, Staff Attorney, LCS  
Erin Bond, Research Assistant, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

## **Monday, August 17**

### **Approval of Minutes**

Upon a motion made and seconded, and without any objections, the committee approved the minutes of the July 30, 2020 meeting.

### **Family Representation Task Force (9:18 a.m.)**

Jennifer E. DeLaney, chief judge, Division II, Sixth Judicial District Court; Mary Ann Shaening, Ph.D., Shaening & Associates, Inc.; Lindsey Fooks, senior staff attorney, Administrative Office of the Courts; Barbara J. Vigil, senior justice, New Mexico Supreme Court; and Queva Hubbard, lead parent peer mentor, New Mexico Advocacy Program Lead Team, New Mexico Family Advocacy Program, provided the committee with a presentation regarding the Family Representation Task Force. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%201%20Family%20Representation%20TF%20Report%20to%20Legislature.pdf>

Comments from committee members included the following:

- it is important to have accountability for guardians ad litem;
- it is necessary to understand the trauma to the child, even if the child was taken from home due to a dangerous situation; and
- the task force has also looked at a model in which each child is directly represented by a guardian ad litem.

### **Senate Bill (SB) 283 (2020) and SB 284 (2020) (10:59 a.m.)**

Mark Probasco, assistant attorney general, Special Prosecutions, Office of the Attorney General, provided the committee with a presentation regarding SB 283 and SB 284.

### **Pretrial Detention: Ad Hoc Pretrial Detention Committee (1:22 p.m.)**

The Honorable Edward L. Chavez, retired justice, New Mexico Supreme Court; Paul Guerin, Ph.D., director, Center for Applied Research and Analysis (CARA), University of New Mexico (UNM); and Elise Ferguson, M.A., senior research scientist 1, CARA, UNM, provided the committee with a presentation regarding the Ad Hoc Pretrial Detention Committee. The presentation can be found here:

[https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%203%20Ad%20Hoc%20Comm%20Report%20-%20complete%20-%205\\_15\\_20.pdf](https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%203%20Ad%20Hoc%20Comm%20Report%20-%20complete%20-%205_15_20.pdf); and

[https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%203%20Supplement%20Report%20to%20NMSC%20FINAL%2006\\_03\\_2020%20\(1\).pdf](https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%203%20Supplement%20Report%20to%20NMSC%20FINAL%2006_03_2020%20(1).pdf).

A committee member said that regarding determining recidivism rates, it would be helpful to separate violence against a family member versus against a non-family member.

**Pretrial Detention: New Mexico District Attorney Association (NMDAA) (2:05 p.m.)**

Dianna Luce, president, NMDAA; James Grayson, deputy district attorney, Second Judicial District; and Henry Valdez, director, Administrative Office of the District Attorneys, provided the committee with a presentation regarding pretrial detention. The presentation can be found here:

[https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%204%20DA%20Minority%20Report%206\\_11\\_20.pdf](https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%204%20DA%20Minority%20Report%206_11_20.pdf).

Comments from committee members included the following:

- the Supreme Court may want to give guidance about recidivism factors;
- it is clear from the data that the recidivism rate for domestic violence is high; and
- it is strange that judges do not necessarily look at prior arrests when determining when to hold an individual.

**Pretrial Detention: Public Defender Department (PDD) (2:56 p.m.)**

Bennett J. Baur, chief public defender, PDD, and Jonathan Ibarra, attorney, PDD, provided the committee with a presentation regarding pretrial detention. The presentation can be found here:

[https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%205%20LOPD%20Supplemental%20Report%206\\_11\\_2020.pdf](https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%205%20LOPD%20Supplemental%20Report%206_11_2020.pdf).

Comments from committee members included the following:

- prosecutorial discretion is important, but this discretion should be examined to determine how this power is being used; and
- the legislature needs to provide oversight of the district attorneys.

**Public Comment**

The committee heard public comment from Diane McCash.

## **Recess**

The committee recessed at 3:59 p.m.

## **Tuesday, August 18**

## **Reconvene**

The committee reconvened at 9:18 a.m.

### **SB 8 (2020 1st S.S.): Law Enforcement Body Cameras Costs and Funding (9:19 a.m.)**

Clinton Nicley, general counsel, New Mexico Self Insurers' Fund, New Mexico Municipal League (NMML); Glenda Sanchez, risk services director, NMML; Steve Hebbe, chief of police, Farmington Police Department; Grace Philips, general counsel, New Mexico Counties; and Jeff Noah, chief deputy, Valencia County Sheriff's Office, provided the committee with a presentation regarding law enforcement body cameras costs and funding. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%206%202020-NMC-SB8.pdf>.

Comments from committee members included the following:

- the legislation applies to law enforcement officers at courthouses, even though not all those officers are commissioned law enforcement officers who go out into the field;
- federal grants for body-worn cameras are available, but applications are not being accepted until next spring;
- local law enforcement agencies are experiencing understaffing and struggling to attract eligible applicants;
- there may be resources to assist with the grant application process; and
- we should not allow the commercialization of body camera footage.

### **SB 8 (2020 1st S.S.): Privacy and the Inspection of Public Records Act (10:39 a.m.)**

Tania Maestas, chief deputy attorney general, Civil Affairs, Office of the Attorney General; Ms. Philips; and Mr. Noah provided the committee with a presentation regarding privacy and the Inspection of Public Records Act relating to the implementation of law enforcement body cameras. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%207%20Study%20Law%20Enforcement%20Body%20Camera%20Issues%20Stakeholders%20Summary%20Report.pdf>.

Comments from committee members included the following:

- it is important to distinguish between not recording at all versus not distributing the footage when addressing concerns with the broad use of body cameras;

- concern about the disclosure of footage that is protected by the federal Health Insurance Portability and Accountability Act of 1996, also known as "HIPAA";
- concern about the disclosure of footage by victims and witnesses and that the law should also contemplate whether civilians give permission for the release of footage;
- it might be helpful to have law enforcement Inspection of Public Records Act divisions provide input in this area; and
- it might be useful to have a footage review board for review of footage in legally complicated situations.

**Update from the Office of the Secretary of State (SOS): Recent Elections Legislation, Preparing for the 2020 General Election and Looking Ahead to the 2021 Legislative Session (1:08 p.m.)**

Sharon L. Pino, deputy secretary of state and chief of staff, SOS; Dylan Lange, general counsel, SOS; Mandy Vigil, elections director, SOS; and Senator Ivey-Soto provided the committee with a presentation regarding recent elections legislation, preparing for the 2020 general election and looking ahead to the 2021 legislative session. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%208%202020-07-18%20SOS%20Updates%20CC%20J%20Committee%20Presenation.pdf>.

Comments from committee members included the following:

- the postal service will have difficulty dealing with this election if it is not hiring any additional staff;
- if the governor issues an order, the order is only valid for 30 days, so there is a chance that the order will not even be relevant at the time the election occurs;
- New Mexico may have already had some postal sorters removed; and
- concern about the consolidation of polling places.

**Update from the League of Women Voters of New Mexico (LWVNM) and Redistricting (3:16 p.m.)**

Diane Goldfarb, director, Voter Services, LWVNM; Dick Mason, chair, Action Committee, LWVNM; Kathleen Burke, coordinator, Fair Districts for New Mexico; and Lilly Irvin-Vitela, M.C.R.P., president and executive director, New Mexico First, provided the committee with a presentation regarding redistricting. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20081720%20Item%209%20NMF%20Redistricting%20Taskforce%202020.pdf>.

Comments from committee members included the following:

- there is significant history regarding an independent redistricting commission; and

- the legislature may want to take action to add more criteria, including special interest groups, geographical landmarks and county lines.

### **Effects of COVID-19 on Transitional, Post-Incarceration Residential Services (3:57 p.m.)**

Greg Morris, executive director, HopeWorks; Annam Manthiram, chief development and communications officer, HopeWorks; and Nevin Marquez, M.S.W., director, Behavioral Health Services, HopeWorks, provided the committee with a presentation regarding the effects of COVID-19 on transitional, post-incarceration residential services. The presentation can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=8/17/2020&ItemNumber=10>.

A committee member said that during the pandemic, there is a need for transitional locations for individuals coming out of correctional custody and supervision.

### **Public Comment**

The committee did not hear any public comment because there were no commenters.

### **Adjournment**

There being no further business before the committee, the meeting adjourned at 4:20 p.m.