

(not approved)

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

**November 17-18, 2008
Room 307, State Capitol**

**November 19, 2008
Room 317, State Capitol**

The sixth meeting of the Courts, Corrections and Justice (CCJ) Committee was called to order by Senator Cisco McSorley, co-chair, at approximately 10:25 a.m. on Monday, November 17, 2008, in Room 307 at the State Capitol in Santa Fe, New Mexico.

Present

Rep. Al Park, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair (Nov. 17)
Rep. Thomas A. Anderson
Rep. Joseph Cervantes (Nov. 18-19)
Rep. Gail Chasey
Sen. Clinton D. Harden, Jr. (Nov. 18-19)
Sen. Carroll H. Leavell (Nov. 17-18)
Rep. Antonio "Moe" Maestas
Sen. Richard C. Martinez
Sen. Lidio G. Rainaldi
Rep. William "Bill" R. Rehm
Rep. Peter Wirth
Rep. Eric A. Youngberg

Absent

Advisory Members

Rep. Elias Barela
Sen. Mary Jane M. Garcia
Sen. Gay G. Kernan (Nov. 17-18)
Sen. Linda M. Lopez (Nov. 17)
Rep. W. Ken Martinez
Rep. Jane E. Powdrell-Culbert
Rep. Sheryl Williams Stapleton (Nov. 18)
Rep. Mimi Stewart
Rep. Teresa A. Zanetti (Nov. 18)

Sen. Kent L. Cravens
Rep. Daniel R. Foley
Sen. John T.L. Grubestic
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 those not present for the entire meeting.)

Staff

Maha Khoury
Aldis Philipbar
Mark Harben

Guests

The guest list is in the original meeting file.

Monday, November 17

The committee stood for a moment of silence in honor of the passing of Emilio Naranjo, a former state senator, county sheriff and chairman of the Rio Arriba Democratic Party.

Update on the DNA System and Proposed Legislation

John Krebsbach, chair, DNA Oversight Committee, updated the committee on the DNA system and discussed legislation for possible endorsement. He said that there are only three employees for the statewide DNA operation and that there is no backlog now. He clarified that the crime labs in Hobbs and Las Cruces do not have DNA labs. Mr. Krebsbach discussed the DNA matches with other states, case-to-case matches, case-to-offender matches and the high number of investigations aided by DNA in New Mexico. New Mexico also has the highest match rate in the nation. He presented the committee with several newspaper articles detailing how DNA aided in investigations and, in one instance, freed a suspect. He added that the DNA database has proven more proactive than originally anticipated. He also discussed changes to the DNA Identification Act in the proposed legislation.

Mr. Krebsbach then answered questions from the committee. Attorney General Gary King said that his office had no problems with the bill.

Oversight of Law Enforcement Officers

Paul Barunda, concerned citizen, Las Cruces Watch Group, said there is a lack of a system of checks and balances for the police. He said that the police are protected by their own internal reviews to avoid civil suits. He said that the attorney general (AG) is not the attorney of the people, the AG is the attorney of the state and it is the duty of the AG's Office to protect police from lawsuits, leaving citizens without anywhere to turn. Mr. Barunda added that the existing policies and regulations are in conflict with the law regarding redress of grievances by private citizens against police abuse. He pointed out various grievances where no action was taken and said that a virtual police state exists in Dona Ana County, with false arrests, intimidation and bureaucratic coverups. In order to fix the problem, Mr. Barunda recommended that a "blue ribbon" review be conducted to hold public hearings, a joint memorial be passed to conduct a study of the current system and a special investigator be appointed to look into the situation in Dona Ana County.

Bill White, municipal judge, Town of Edgewood, attributed the problem with law enforcement to paramilitary policing, solidarity among law enforcement and a pact of silence. He discussed several examples of botched police raids, including one in which a 92-year-old woman was shot 39 times when police raided the wrong house. Judge White also made suggestions to help fix the problem. He recommended that SWAT raids be videotaped and a point system with a sliding scale be developed for substantiated complaints. He suggested prohibiting the acceptance of forfeiture assets, the use of National Guard forces for SWAT operations and implementing a higher standard for any warrant served by SWAT. He said the police need to return to the original purpose of SWAT. He suggested prohibiting warrants based on unsubstantiated informants and prohibiting SWAT responses to suicides, medical marijuana usage and cases where there is no threat to others. He also said that raids conducted on the wrong house should be considered presumptively negligent and that a database should be used to keep track of warrants that resulted in an inaccurate raid by using the names of the judge and the informant as cross-references. He also suggested limiting the power of police unions.

Arthur Ortiz, director, New Mexico Law Enforcement Academy (NMLEA), said that he agrees with Mr. Barunda and Judge White that there is a problem, but he wants to make sure that law enforcement remains an honorable profession. He said he was surprised at the low numbers of misconduct reports when he became director of the NMLEA. Mr. Ortiz stated that, in March 2007, he held a meeting with police chiefs to notify them that they would not receive training funds if they were not in compliance. He said he is trying to hold everyone accountable and to educate them. He added that the AG assigned an attorney to the NMLEA to help it move misconduct cases along. He said the academy is trying to close all of its misconduct cases in the next six months and that it is implementing community service programs. He said the biggest problem is that police chiefs and sheriffs are not reporting misconduct and that the requirement in the statutes for a conviction makes it difficult to punish misconduct. He added that it is very hard to prosecute police officers; they often get just a slap on the wrist, but they need to be held to a higher standard.

Attorney General King, chair, NMLEA, said that the duty of the AG's Office is not to represent private litigants. He said that the NMLEA Board certifies and decertifies law enforcement personnel. He said that none of the issues brought by Mr. Barunda or Fred Chilton, concerned citizen, Las Cruces Watch Group, at the Las Cruces meeting was a certification issue. He said that the AG's Office has little jurisdiction in this arena, with the exception of some criminal acts by law enforcement. Attorney General King added that complaints should be brought to the district attorney and that he sent Mr. Barunda a letter outlining the jurisdiction of the board. He also added that the county sheriff is an elected official subject to the control of the electorate and that it is typically the sheriff or police chief who handles complaints against an officer. He conceded that there is no formal route to complain about a police chief or the entire police department and said the legislature may want to consider creating a citizens' review board to handle those kinds of complaints.

Jim Burelson, executive director, New Mexico Sheriffs' and Police Association, said that for the dozens of horror stories about the police, there are trillions of examples of good conduct. He said there are avenues of redress. He suggested telling another officer or an institutional review board, adding that the tolerance level for wrongdoing among police officers is low. He said that the district attorney holds the police academy accountable. Mr. Burelson added that Attorney General King has been proactive about preventing corruption in government, including among the police.

The panel then answered questions from the committee.

Proposed Legislation: Methamphetamine Use in the Presence of Children (Bill Draft No. 34)

Representative Nora Espinoza discussed a proposed bill that would criminalize methamphetamine (meth) use in the presence of children and introduced two guests to testify on behalf of the legislation. Ron Mullens, senior instructor, Investigations and Enforcement Branch, Homeland Security and Emergency Management Department, said that he worked with the New Mexico State Police and saw many children trapped in these drug environments. He said that there is just as much meth on the street as ever before, despite stronger pseudoephedrine laws, because 98 percent of the drugs come from Mexico. Mr. Mullens said that smoking the drug contaminates everything, leaving residue 1,000 times higher than what the federal Occupational Health and Safety Administration would approve. He emphasized that children are very active in their environments and that 75 percent of children who come out of this kind of environment test positive for meth. He added that meth use results in extreme neglect and abuse and that there is a big hole in the system when it comes to caring for these children.

Hayley Slape, a former police officer and mother of three, also testified on behalf of the proposed bill. She said that she is currently caring for her four-year-old granddaughter, who was exposed to meth, and that her granddaughter's sibling actually died of meth exposure. She said that children who are exposed to meth are sick all the time because their little bodies cannot fight the bacteria while they are fighting the meth. She said that her granddaughter lost her hair and would claw her skin. She encouraged the passage of this bill to help children living in this situation.

The committee thanked the panel for its testimony, and a question-and-answer period ensued.

Second Chance Program

Joy Westrum, president, Second Chance Center, said that the Second Chance Program addresses all forms of substance abuse and is more cost effective than incarceration. According to Ms. Westrum, the Second Chance Program costs the state \$65.00 per day per offender, whereas incarceration costs \$85.00 per day per offender. The program has received money from the federal government and funds from the state and from counties.

Doug Eberhart, Second Chance graduate, told the committee that substance abuse cost him his family. He said that there are no rehabilitation services in the Corrections Department. He said that he was sent to jail multiple times with no changes in his behavior, then he was sent to Second Chance, and he now works for the program and is back with his family. Mr. Eberhart said that the most important tool in his recovery was the Narconon component and a detoxification sauna. He said that this program offers help, saves lives and builds life skills that are practiced daily so they are not a foreign concept upon release.

Paul Guerin, Ph.D., senior research scientist at the Institute for Social Research, University of New Mexico, discussed an evaluation of the Second Chance Program. He said that his preliminary findings include the following: offenders are not screened when they come into the program; the program lasts six months, yet Second Chance is taking people with 90-day sentences or less; and Second Chance is not following its own policies. He added that Criminon, a program used by Second Chance, contains some "best practices" of cognitive behavioral therapy, but that Narconon is very controversial and is not widely accepted in the medical community. He said that the institute needs three years for a better understanding of how the program works as well as a control group to compare benefits, if any.

The panel then answered questions from committee members.

Measuring the Fiscal Impact of Legislation Affecting Criminal Penalties: Two Approaches

Tony Ortiz, deputy director, New Mexico Sentencing Commission (NMSC), said that the original bill tackling this issue was pocket vetoed by the governor. He discussed some of the technical issues surrounding that bill, including some procedural issues. He outlined the second approach, which would simply give the NMSC an appropriation to measure the impact without changing legislative procedures. John Bigelow, chair, NMSC, said that the consensus of the NMSC is that the principal concept of the bill — requiring the NMSC to measure the fiscal impact of legislation affecting criminal penalties — is good, but at the same time, the commission recognizes that the procedures might interfere with legislative and executive prerogatives. Mr. Bigelow said that the NMSC is well aware of the revenue shortfalls for the coming year; however, the task is something that would be beneficial to the state, but cannot be done without the necessary resources.

Allow Counties with a Metropolitan Court to Assess Fees for Local Government Corrections and Jail Administration and Overcrowding

Alan Armijo, chief county commissioner, Bernalillo County, and Thaddeus Lucero, Bernalillo County manager, presented four bill drafts for the committee's consideration, including two tax bills, a bill that would allow counties with a metropolitan court to assess a local corrections fee and a bill to prohibit incarcerating violent felons in county jails. The committee had not been previously apprised of three of these bill proposals.

Paul Gutierrez, director, New Mexico Association of Counties (NMAC), presented three bill drafts. The bills seek to allow jail administrators to award credit for good behavior; create standards for a county alternative to incarceration and make escape from that program a crime;

and create a county detention facility population control commission. Patrick Snedeker, warden, San Miguel County jail, noted that all bills were a result of the hard work of the task force created by House Joint Memorial 22.

Mr. Ortiz discussed a survey sent out by the NMSC that focused on three questions, including deduction of time for good behavior. He said that of the 28 counties with detention facilities, 15 indicated that their facilities had established rules for the accrual of earned time.

Marc C. Lowry, attorney, Rothstein law firm, said that the bills presented by Mr. Gutierrez are spin-offs of the bill proposed by him this year and last year. He said that the bills attempt to tackle overcrowding and noted that the Bernalillo County jails are drastically overcrowded with insufficient staff. He said that inmates who are denied good behavior credit by a judge at sentencing have no incentive to behave well in the jails. He added that these bills seek to clarify that a county can create alternatives to incarceration of nonviolent offenders, independent of the judiciary. In response to a question asked by a committee member, Mr. Lowry said there is a problem with stacking misdemeanor offenses without good behavior credit and with housing the offender in a county jail rather than sending the offender to prison where good behavior credit is earned.

Visitation Pilot Program for Children of Jailed Parents

Grace Philips, staff attorney, NMAC, described a pilot children's visitation program and the success it has had for inmates, children and families. She called the visitation program an effective inmate management tool. She said that inmates have to earn the visits and that the goal of the program is to address the needs of children. She said that PB&J Family Services is currently providing child resource advocates.

Mr. Snedeker added that the initial funding came from the legislature and that the Children, Youth and Families Department monitors and administers two pilot programs. He said that San Miguel County received a \$25,000 grant.

The panel then answered questions from the committee.

Tuesday, November 18

The Workers' Compensation Act and Farm Workers

Kim Posich, executive director, New Mexico Center on Law and Poverty, played a short video for the committee showing farm workers' stories and injuries to farm workers in New Mexico. He said that the Workers' Compensation Act requires employers of three or more workers to purchase insurance that will provide scheduled amounts of compensation to covered workers who are injured or killed on the job. Businesses in the construction industry must purchase this insurance regardless of how many workers they employ. He said that in New Mexico, the agricultural industry is the only industry exempted from complying with this act. Mr. Posich said that the act benefits employees by providing basic health benefits and benefits employers by preventing lawsuits. Mr. Posich called farming one of the most dangerous

occupations in the U.S. and said that most farm-related injuries in New Mexico are not covered by insurance. He said that 63 percent of farm laborers work fewer than 150 days per year. The annual cost to cover these farm workers is \$528 per year for those in the assigned risk pool and \$380 per year for those in the voluntary market. Mr. Posich said that New Mexico can afford the coverage; net farm income in New Mexico in 2006 was \$429 million, and in 2007 it surpassed \$800 million. He cited a report by New Mexico State University Professor Al Barryman that concluded that workers' compensation coverage for agricultural workers is moderate and is comparable to the construction industry. He added that almost all of the states that produce the same commodities as New Mexico's leading commodities provide workers' compensation for agricultural workers. He said that 33 states require workers' compensation for farm workers, although some exempt small farms and part-time employees. Mr. Posich said that covering agricultural workers in New Mexico is good public policy and it is affordable.

In response to questions from committee members, Mr. Posich said his center has been attempting to work with the industry on a joint proposal, but the industry has been dragging its feet and has been uncooperative. Senator McSorley added that the agriculture industry had agreed to provide a proposal for covering farm workers at the time the act was modified, but it has not yet done so. Mr. Posich stated that his organization has gone to the Business and Labor Workers' Compensation Coalition and was on the agenda of the Advisory Council on Workers' Compensation and Occupational Disease Disablement for the following day.

Prohibit Law Enforcement from Collecting Information Unrelated to Criminal Conduct

Diane Wood, director, Northern Regional Office, American Civil Liberties Union of New Mexico, discussed a proposed bill that prohibits a law enforcement agency from collecting information on the political, religious or social associations or activities of a person that do not directly relate to investigation of criminal conduct.

Ms. Wood answered questions from the committee. There was some discussion on clarifying the meaning of "reasonable grounds" in the bill.

Substance Abuse Treatment in Lieu of Incarceration for Low-Level Drug Offenders: Costs and Benefits

Julie Roberts, policy coordinator, Drug Policy Alliance New Mexico, discussed a proposed bill that would provide substance abuse treatment for persons charged with certain substance abuse offenses. She said that under this legislation, people charged with drug possession offenses or drug-related probation and parole violations would receive supervision and appropriate community-based treatment services. She said that the proposed law tries to intervene in the cycle of addiction and incarceration. She said that this proposal would make communities safer by reducing drug-related crime and preserving jail and prison space for more serious offenders. She also discussed the cost savings associated with the bill, citing a study by the RAND Corporation that found that every additional dollar invested in substance abuse treatment saves taxpayers \$7.46 in societal costs.

Donald Gallegos, New Mexico District Attorney's Association, said that district attorneys

have concerns with the bill. He said that the criminal conduct language in the bill adds another level of scrutiny and that there are no provisions for additional crimes.

Providing Treatment to Sexually Abusive Youth: Training Program for Therapists

Susan Loubet, executive director, New Mexico Women's Agenda, discussed a training program for therapists who treat sexually abusive youth and some of the comments made by participants. Kim Alaburda, executive director, New Mexico Coalition of Sexual Assault Programs, said that in 2007, the legislature approved a measure to fund initial and continuing training of therapists certified to provide treatment to youth with sexual behavior problems. She noted many reasons why this training is necessary, including that as much as half of all child sexual abuse is committed by children under the age of 18 and that there is mounting evidence that treatment intervention with juveniles will make communities safer and give sexually abusive youth the opportunity to live abuse-free lives. She said that between July 2007 and June 2008, the New Mexico Coalition of Sexual Assault Programs sponsored two two-week training programs. Each participant and supervisor had to commit to providing a minimum of one year of free services to New Mexican youth and their families. Ms. Alaburda said that in October 2008, the coalition provided an advanced three-day training to previous participants and will provide another in June 2009. She said that it would also provide another two-week certification class for up to 25 students in February 2009. She requested that the New Mexico Department of Health keep the funding intact as originally requested by First Lady Barbara Richardson and approved by the legislature and added that it has a waiting list of therapists.

Randall Cherry, general counsel, Sex Offender Management Board (SOMB), said that he attended the training and that many people from outside of Albuquerque attended as well. He emphasized the importance of specialized training in this area and said that the SOMB supports the program.

Car Title Loans

Karen Meyers, director, Consumer Protection Division, AG's Office, said that the AG believes it is time to regulate the car title loan industry. The car title loan industry has proposed an interest rate of 403 percent per annum with a limit of nine loan rollovers. These terms would place people at great risk because they can lose their car, and the loss of a car can result in the loss of a job. Ms. Meyers emphasized that the AG is not trying to put anybody out of business, he is only trying to protect consumers. She said that the industry-proposed bill lacks protections.

Eric Vasquez, senior policy analyst, Office of the Lieutenant Governor, said that his office receives calls from people who have received car title loans and are having problems. He said that he cannot offer them any help because the activities are not illegal. He said that there needs to be consumer protections while providing a responsible line of credit by instituting caps and creating a database. Mr. Vasquez added that predatory lending is at the heart of the current economic crisis and can no longer be tolerated.

Robert Reich, president, Community Loans of America, said that there is currently no official industry bill, only comments added to a bill circulated by Representative Park. He said

that his company has been operating in New Mexico since 1997 and that it has been audited every year. He said that some people do not use the product wisely and that the single largest reason for a default is when a car breaks down. Mr. Reich said that title loans are non-recourse, they are halfway between a loan and a pawn and that about one-third of their borrowers are self-employed. He said that car title loans often get lumped in with payday loans, but they are not the same. He said that once a lien is put on a car, no other loan can be taken out against it. Mr. Reich added that his company is required to do financial reporting. With regards to legislation, he urged the committee to make sure that the Financial Institutions Division of the Regulation and Licensing Department has the resources to implement whatever is required by the bill. He said that he would like to be part of the discussion and would be happy with the same interest rate cap as payday loans.

The panel then answered questions from the committee.

Report on Independent Oversight Correctional Facilities

Attorney General King introduced members of the House Memorial 72 Task Force. Dave Pederson, Gallup city attorney, said that New Mexico has the highest percentage of prisoners in private systems, which leads to issues of oversight. He said that there are no statutory provisions that control the operation of private prisons. He said that the task force recommends the creation of an independent oversight entity with "golden-key access", allowing the oversight body to go into the prisons at any time. Mr. Pederson said that the purpose of oversight is to supervise operations. He also said that New Mexico now has about 2,000 more inmates in county jails than in prison facilities. He added that the population has been shifting from the state level to the local level and it is important to shed light on what is going on and have public comment. He stressed that this oversight body would not be a policing agency. Mr. Pederson pointed out that the Corrections Department does not see the need for an oversight body with "golden key access" because there has been no evidence to suggest that such an entity is effective. The Corrections Department also pointed out that its prisons are already subject to several oversight agencies, including the American Correctional Association, the National Commission on Correctional Health Care, the CCJ and the Legislative Finance Committee.

The panel then answered questions from the committee.

Auto Theft Report and Proposed Legislation

Ken Ortiz, director, Motor Vehicle Division (MVD), Taxation and Revenue Department, said that pursuant to House Memorial 53, the secretary of public safety and the director of the MVD assembled a task force to conduct a comprehensive study of the problem of auto theft in New Mexico and make recommendations on changes to the law or regulations as necessary.

Lou Heckroth, sergeant, Auto Theft Unit, Albuquerque Police Department, said that in 2006 the economic loss of stolen vehicles in New Mexico amounted to \$83 million. Mr. Heckroth listed various examples of vehicle-related crimes and said that sharing a border with Mexico puts New Mexico residents at a greater risk. He discussed "chop-shop" operations and said that vehicles are worth three times as much in parts. Mr. Ortiz discussed the initiatives at

the MVD and the Department of Public Safety (DPS), including exploring electronic vehicle titling, alternating the color of registration stickers each year, implementing a "Watch Your Car" program and providing more auto theft training to law enforcement officers. Mr. Heckroth discussed the initiatives of other law enforcement agencies, including proposed legislation and creating an auto theft prevention authority. Mr. Ortiz said that auto theft and vehicle-related crimes affect the economy as well as vehicle and highway safety and that there is a need to remain vigilant to reduce the incidence of these crimes.

Marty Trujillo, Farmers Insurance, said that there are some numbers that concern him, such as the \$83 million financial impact of auto theft. He said that this issue goes beyond the theft of a car. He said that accidents that affect law-abiding citizens are often caused by stolen vehicles. He said that the insurance industry does not see an immediate impact on premiums, but there could be an increase in premiums down the road if effective action is not taken to prevent auto theft.

Require Mediation of Construction Cases

Peter G. Merrill, president and chief executive officer, Construction Dispute Resolution Services, LLC, reviewed a proposed bill draft that would require all construction disputes to go to mediation. He argued that requiring construction disputes to go to alternative dispute resolution (ADR) would provide timely decisions. He said that the industry does not need a full right-to-cure law and that both parties must agree to ADR.

Ms. Meyers said that the AG's Office has strong concerns with the bill. She said that this legislation takes away a person's right to choose where to take a case. She said that the court system has mediation, and it is free, whereas this legislation would require a private mediator and those who cannot afford it will have no recourse. Lisa Martinez, Constructions Industries Division, Regulation and Licensing Department, said that she was not provided with an opportunity to review the proposed bill and is not sure how it would work with the Construction Industries Licensing Act.

Mr. Merrill and Ms. Meyers answered questions from the committee.

Collateral Consequences of Arrest, Conviction and Incarceration

Mike Hall, executive director, NMSC, reminded the committee that the legislature provided funding to the NMSC to convene a task force to study the collateral consequences of criminal arrest, conviction and extended periods of incarceration and to make recommendations on how to neutralize or eliminate those consequences. He said that collateral consequences are generally regarded as the negative effects that persist after the completion of a court-ordered sentence and may include forfeiture of the right to vote; disqualification for occupational opportunities; lack of available housing and access to education; and registry in an offender database. Mr. Hall said that the NMSC also looked at the issue of proportionality in that some collateral consequences can be so extensive that they are disproportionate to the crime. The task force found 71 instances of collateral consequences in the New Mexico statutes. Mr. Hall said the task force found 19 instances of general civil consequences in the statutes or court rulings

and 47 statutes affecting specific occupations. Angie Vachio, president, Women's Justice Project, Inc., noted that this study does not include federal barriers. Christina Vigil, director, New Mexico Women's Justice Project, Inc., made recommendations regarding this issue, including allowing for a remedy when a felon is denied employment and some form of protection for employers who hire felons. Other recommendations included providing an incentive to employers who hire felons and legislation that would toll the time running on automatic loss of parental rights during incarceration or drug or alcohol rehabilitation.

Wednesday, November 19

Governor's Legislative Proposals

John Wheeler, crime policy advisor to the governor, discussed some of the governor's criminal law proposals. He spoke about the drugged driving bill and electronic administrative hearings for DWI. With respect to gangs, he said that the administration is in the conceptual stage of creating a youth intervention specialist position to work with at-risk youth and the DPS gang interventionist with the goal of intervening at the earliest possible stage to prevent gang involvement. He said that the administration wants to punish those that recruit. He added that the SOMB has a meeting in December and will discuss the federal Adam Walsh Child Protection and Safety Act of 2006. He said that it is the intention of the administration to put forward the less controversial parts of the act. He also addressed some "cleanup" issues with respect to sex offender registration laws, saying that last year the legislature passed the human trafficking bill, which includes sex trafficking, and that the Governor's Office is currently discussing with the NMSC and the SOMB whether the sex offender registry is the appropriate place for sex traffickers. He also said there are discussions about including palm prints in the registry.

Sharon Pino, domestic violence coordinator, Office of the Governor, said that four legislative initiatives were recommended in the New Mexico Domestic Violence Leadership Commission's 2008 annual report to the governor. She said that a bill promoting the financial independence of victims of domestic violence, sexual assault and stalking would allow survivors to participate in legal proceedings and seek protection from abuse without jeopardizing their employment. Ms. Pino addressed a second bill related to stalking, which affects one in four women and one in 14 men, according to the 2005 statewide victimization survey. She said that of those stalking incidents resulting in an arrest, only 51 percent result in a conviction. She said that criminal damage or deprivation of property against a household member is another issue that needs to be addressed. She said that there is a gap in protection for victims of domestic violence and that this type of behavior is commonly used to exert power and control in domestic violence incidents. She also addressed domestic violence issues with regards to law enforcement. She said that one challenge in enforcing domestic violence laws and providing strong protections for victims of domestic violence is in properly addressing the issue of law enforcement officers who are perpetrators of domestic violence. She said that law enforcement officers need to be held to a higher standard and that a proposed bill would include domestic violence as one of the crimes that would deny an individual certification as a law enforcement officer or may cause a certification to be suspended or revoked.

Post-Election Evaluation of Voting Systems

Paul Stokes, coordinator, United Voters of New Mexico, discussed a proposed bill that would require a post-election evaluation of the accuracy of voting systems. Mr. Stokes said that a voting machine audit involves randomly selecting a small number of precincts and comparing the machine counts of the ballots to the hand counts. He said that voting system audits are necessary because voting machines can make errors resulting in the wrong candidate being declared the winner. He also said that the current audit provision needs to be changed because a two percent sample size is too large and too costly for races won by large margins and too small for races won by small margins. Mr. Stokes said that the proposed audit concept would choose a random sample of precincts just large enough so that some miscounts would likely be included if enough miscounts were present to swing the election.

Comments were taken from the audience, including representatives from the Secretary of State's Office, New Mexico county clerks and from Maggie Toulouse-Oliver, Bernalillo County clerk. A discussion with committee members, Mr. Stokes and members of the audience ensued.

Election Day Registration

Regina M. Eaton, deputy director, Democracy Project, said that nine states allow voters to register and vote on the same day. She said that those states do have registration deadlines to get poll books together, but voters can still register after the deadline. They just have to register in person and vote on the same day. She said that allowing people to register and vote on the same day allows people who have traditionally been left out of the democratic process to be involved. Ms. Eaton added that there is also a bill at the congressional level that deals with this issue. Stephen Fetting, United Voters of New Mexico, touched on some fraud concerns, but he said that there are ways to prevent voter fraud. He said that there is no extra cost associated with allowing voters to register and vote on the same day and that it may actually cost less than the current system. He also added that there is no requirement in the bill that registration be electronic.

Comments were taken from members of the audience, and a question-and-answer period followed.

Committee Endorsement of Proposed Legislation

The committee voted to adopt bill drafts numbered 1-33, 35, 37, 39-41, 43 and 49-50 in the bill books. Senator Harden voted against bill drafts numbered 2, 3, 11, 16, 17, 18, 35, 37, 39, 40, 41, 49 and 50. Senator Martinez voted against bill drafts numbered 12, 16, 39 and 40.

There being no further business, the committee adjourned at 12:00 noon.