

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

JUSTICE REINVESTMENT COMMITTEE

Wednesday, September 13, 2017
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Kelly M. Armstrong, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Kelly M. Armstrong, Dick Dever, John Grabinger, Dave Oehlke, Arne Osland; Representatives Jake G. Blum, Pat D. Heinert, Tom Kading, Karen Karls, Lawrence R. Klemin, Lisa Meier, Jon O. Nelson, Bernie Satrom, Steve Vetter

Members absent: Representative Karla Rose Hanson

Others present: Senator Rich Wardner, Dickinson, member of the Legislative Management
See [Appendix A](#) for additional persons present.

At the request of Chairman Armstrong, the Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

Chairman Armstrong said the issues and studies the committee will undertake have come before this type of committee numerous times. He said the Justice Reinvestment Committee has a broader scope and he envisions the committee taking a more holistic approach in terms of how the state delivers the criminal justice system for nonviolent and addiction-related crimes.

At the request of Chairman Armstrong, the Legislative Council staff reviewed a memorandum entitled [Justice Reinvestment - Juvenile Justice - Operation and Management of Correction Facilities Background Memorandum](#).

JUVENILE JUSTICE

Chairman Armstrong called on Ms. Lisa Bjergaard, Director, Division of Juvenile Services, Department of Corrections and Rehabilitation, for information (Appendices [B](#), [C](#), [D](#), [E](#), and [F](#)) regarding the juvenile justice system. Ms. Bjergaard said the juvenile system really starts with law enforcement and includes the juvenile court, probation, child welfare, and the Division of Juvenile Services. She said the state's juvenile violent crime rate is less than half of the national rate; however, the state has a higher rate of drug and alcohol use and disorderly conduct.

In response to a question from Chairman Armstrong, Ms. Bjergaard said the state has very good interaction between law enforcement and youth, particularly through school resource officers. She said the higher rate of disorderly conduct cases could be attributed to an increased law enforcement presence in schools; however, further analysis is needed to determine whether appropriate community resources exist to divert some of the higher risk youth.

Ms. Bjergaard said at a time when juvenile crime rates were dropping across the country, commitment rates to youth correctional centers and mental health facilities in the state remained steady. She said the youth population is at a low and now is the time to make changes to the system to avoid the type of exponential growth in the incarceration rate of juveniles that the adult system has experienced in recent years.

In response to a question from Chairman Armstrong, Ms. Bjergaard said instead of looking at the juvenile system feeding the adult system, the committee should look at the adult system feeding the juvenile system because of individuals reaching adulthood unequipped to parent.

Chairman Armstrong called on Ms. Sally Holewa, State Court Administrator, Supreme Court, for information ([Appendix G](#)) relating to the juvenile court system. Ms. Holewa said the Supreme Court asked for the study because now is a good time to analyze the juvenile system as a whole. She said the Council of State Governments' Justice Center recommended several changes to the state's system and the juvenile court directors in the state were looking at the age of kids coming into the system compared to the age of criminal responsibility as outlined in North Dakota Century Code Section 12.1-04-01, which provides an individual under 7 years of age is deemed incapable of commission of an offense defined by the constitution or statutes of the state.

In response to a question from Representative Meier, Ms. Holewa said individuals under the age of 10 are referred to the juvenile court system for various offenses, such as simple assault or theft.

In response to a question from Representative Klemin, Ms. Holewa said the juvenile court budget designates \$11 per day per juvenile, with a total budget of \$14 million. She said there are juvenile court offices in 11 cities and the Department of Juvenile Services operates 8 regional offices.

In response to a question from Chairman Armstrong, Ms. Holewa said the overall budget of the judicial branch is \$11 million less for the 2017-18 biennium than the 2015-16 biennium. She said 11 positions were cut from the juvenile court and 1 office was closed.

In response to a question from Senator Grabinger, Ms. Holewa said it is too early in the biennium to know if the budget cut will have a detrimental effect on juveniles.

Chairman Armstrong called on Mr. Josh Weber, Deputy Division Director, Juvenile Justice Program, Council of State Governments' Justice Center, for information ([Appendix H](#)) regarding the methods being used to reform juvenile justice systems in other states.

Chairman Armstrong called on Mr. Aaron Birst, Legal Counsel, North Dakota Association of Counties, for a presentation relating to issues facing local prosecutors and law enforcement officials. Mr. Birst said a number of prosecutors have expressed satisfaction with the juvenile system in the state even going as far as to note the system is the best in which the prosecutors have practiced. He said the prosecutors identified a lack of resources in rural areas and the western part of the state and noted the creation of statewide policies may do more harm than good.

Chairman Armstrong called on Mr. Terry Traynor, Chairman, North Dakota Juvenile Justice State Advisory Group, to provide information ([Appendix I](#)) relating to the advisory group's study of the juvenile justice system. Mr. Traynor said the state advisory group was created by the Department of Justice in 1989.

In response to a question from Chairman Armstrong, Mr. Traynor said changes in programming at schools should be addressed; however, those changes do not require legislation.

COMMENTS BY INTERESTED PERSONS

Chairman Armstrong invited comments by interested persons regarding the juvenile justice system.

Ms. Karen Kringlie, Director, Juvenile Court Services, North Dakota Juvenile Court, said in rural areas where community services ([Appendix J](#)) aren't available the court officer provides services. She said the Council of State Governments' Justice Center suggested the use of a risk assessment tool earlier in the process, as a result every juvenile who comes in does the assessment right away in an effort to determine what exactly is driving the behavior. She said the juvenile officers also are providing more cognitive-based classes with groups to talk about how to handle life stressors, and efforts have been made to provide more family-based counseling.

Mr. Cory Pederson, Director, Juvenile Court Services, North Dakota Juvenile Court, said there are pockets of positive things happening in the state and rural areas; however, some issues could be remedied through better communication.

MANAGEMENT AND OVERSIGHT OF JAIL FACILITIES

Chairman Armstrong called on Ms. Leann Bertsch, Director, Department of Corrections and Rehabilitation, for information ([Appendix K](#)) regarding the role of the Department of Corrections and Rehabilitation (DOCR) in the management and oversight of jail facilities.

In response to a question from Representative Klemin, Ms. Bertsch said the facility standards are developed based on Chapter 12-44.1, the American Correctional Association Standards, and federal law.

In response to a question from Senator Dever, Ms. Bertsch said the deficiencies in facilities cannot be entirely attributed to a lack of training. If there is a lack of leadership and accountability, she said, training will not fix the problem. She said it can be difficult to regulate jails when the individuals performing the inspections are friends with the jailers. She said the current system works well because DOCR does the inspection and handles the administrative aspects while the Bureau of Criminal Investigation handles the criminal aspects.

In response to a question from Representative Nelson, Ms. Bertsch said one of the reasons DOCR supported this study was because when the rules were created, DOCR faced a lot of resistance to the new requirement to offer inmates medical and mental health services.

In response to a question from Senator Grabinger, Ms. Bertsch said there is no advantage to transferring oversight to the Attorney General.

In response to a question from Representative Heinert, Ms. Bertsch said licensing jails would not negate the need for an inspection process. She said licensing correctional officers would be a step in the right direction.

Chairman Armstrong said the turnover rate for correctional officers is extremely high and requiring licensure could create more problems than it solves.

In response to a question from Chairman Armstrong, Ms. Bertsch said there is not an economic impact associated with transferring the oversight responsibility as the process is simply an extra duty required of the DOCR staff.

Chairman Armstrong called on Mr. Troy Seibel, Chief Deputy Attorney General, Attorney General's office, for a presentation regarding the ability of the Attorney General's office to provide management and oversight of jail facilities. Mr. Seibel said the Attorney General's office had the duty to provide oversight for about 10 years before the duty was transferred to DOCR in 1989. He said the Attorney General's office will do anything the office is tasked with.

Chairman Armstrong called on Mr. Birst for information ([Appendix L](#)) regarding the management and oversight of jail facilities. Mr. Birst said Ms. Bertsch has done a great job in keeping things moving even though DOCR no longer provides training to jails and staff.

In response to a question from Representative Nelson, Mr. Birst said if the state or county is not willing to provide local treatment and job skill training, offenders will continue to be released untrained, unskilled, and uneducated.

In response to a question from Representative Klemin, Ms. Bertsch said DOCR has not had the obligation to train correctional officers since 1997. She said DOCR continued to train correctional officers until 2010 because state law required correctional officers to complete a course approved by DOCR. She said the law was amended because sheriffs and jail administrators wanted to provide training.

COMMENTS BY INTERESTED PERSONS

Chairman Armstrong invited Ms. Pam Sagsness, Director, Behavioral Health Services Division, Department of Human Services, to provide an update on the implementation of the community behavioral health program.

Ms. Sagsness said the Department of Human Services is offering training and will be taking applications in the next several weeks regarding the ability to implement the program at a local level.

Chairman Armstrong said the next meeting likely will be January 10, 2018, and will include presentations by schools and school resource officers and an update from the Department of Human Services regarding the community behavioral health program.

No further business appearing, Chairman Armstrong adjourned the meeting at 2:45 p.m.

Samantha E. Kramer
Counsel

ATTACH:12