



Commission on Sentencing

64th Montana Legislature

PO BOX 201706
HELENA, MONTANA 59620-1706
(406) 444-3064

LEGISLATORS

SEN. CYNTHIA WOLKEN - CHAIR
SEN. KRISTIN HANSEN - VICE CHAIR
REP. MATTHEW MONFORTON
REP. MARGARET MacDONALD

PUBLIC MEMBERS

HON. INGRID GUSTAFSON
MIKE BATISTA
DEREK GIBBS
DAN GUZYNSKI
JENNIE HANSEN
ROXANNE KLINGENSMITH

PUBLIC MEMBERS

LEANN MONTES
PETER OHMAN
MARY ANN RIES
MAJEL RUSSELL
DONNA WHITT

COMMITTEE STAFF

RACHEL WEISS, RESEARCH ANALYST
JULIANNE BURKHARDT, ATTORNEY
KATYA GROVER, SECRETARY

MINUTES

March 1, 2016
Room 172, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMISSION MEMBERS PRESENT

SEN. CYNTHIA WOLKEN - CHAIR
SEN. KRISTIN HANSEN - VICE CHAIR
REP. MATTHEW MONFORTON
REP. MARGARET "MARGIE" MacDONALD
HON. INGRID GUSTAFSON
MIKE BATISTA
DEREK GIBBS
JENNIE HANSEN
ROXANNE KLINGENSMITH
LEANN MONTES
PETER OHMAN
MARY ANN RIES
MAJEL RUSSELL
DONNA WHITT

COMMISSION MEMBERS EXCUSED

DAN GUZYNSKI

STAFF PRESENT

RACHEL WEISS, Research Analyst
JULIANNE BURKHARDT, Attorney
KATYA GROVER, Committee Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

CALL TO ORDER and ROLL CALL

00:00:07 Sen. Wolken called the commission to order at 8:30 a.m. The commission secretary called roll. **(Attachment 3)**

00:00:56 Sen. Wolken introduced the agenda items for this meeting.

JUSTICE REINVESTMENT IN UTAH

00:02:55 Sen. Wolken introduced Representative Eric Hutchings, State of Utah (via video conference). Rep. Hutchings presented the Justice Reinvestment Report to the commission members. **(Exhibit 1)**

Commission Questions of Representative Hutchings

00:27:14 Commissioner Klingensmith asked about how Utah handled the issue of limited county resources and the issue of diverse demographics in Utah with respect to the treatment programs.

00:33:21 Rep. MacDonald asked Rep. Hutchings to elaborate on the budget and the time line of the rollout of the program that he discussed in his presentation.

00:40:01 Sen. Wolken asked about projected savings that this program brings.

00:42:34 Director Batista asked about the percentage breakdown of criminal population in Utah, as well as about paid and volunteer-based staff of the Board of Pardons and Parole. Director Batista also talked about swift and certain offender sanctions approach implemented in Montana and its challenges and asked Rep. Hutchings whether similar challenges were faced in Utah when they had limited sanction opportunities due to jail overcrowding.

PERSPECTIVES ON CRIMINAL JUSTICE IN INDIAN COUNTRY

Overview, Needs, Concerns

Commissioner Majel Russell
Calvin Jilot, Business Committee Member, Chippewa Cree Tribe
Commissioner LeAnn Montes
Allen Primeau, Chief of Police, Chippewa Cree Tribal Police Department

01:03:07 Panelists introduced themselves.

01:04:52 Commissioner Russell provided introductory information on criminal justice in Indian reservations in Montana. **(Exhibit 2)**

01:18:59 Mr. Jilot discussed the demographics of the Rocky Boy's reservation.

01:22:49 Commissioner Montes spoke about the judicial system on the Rocky Boy's

- reservation.
- 01:32:53 Mr. Primeau spoke on reduction of recidivism and the tribe's jail.
- 01:44:50 Commissioner Montes provided additional information about statistics with respect to repeat offenders on the Rocky Boy's reservation.
- 01:49:00 Commissioner Russell followed up with the information on Affordable Care Act and tribal sponsorship (T-chip).

Commission Questions

- 01:50:14 Commissioner Hansen asked whether a cooperative agreement is needed in order to sanction a probationer to a tribal program, such as a tribal court or a sheriff's program on the reservation.
- 01:52:10 Commissioner Klingensmith asked Commissioner Russell whether the tribal cooperative agreements that she mentioned would require legislative action.
- 01:53:44 Sen. Wolken directed Julianne Burkhardt, Staff Attorney, to find out whether the legislature needs to expand the statutory framework to allow the tribal cooperative agreements.
- 01:56:08 Commissioner Russell provided closing comments for the panel presentation, specifically on the extradition process.
- 01:57:10 Sen. Wolken directed staff to gather further information with respect to the extradition process.

Public Comment

- 01:57:51 Jim Taylor, Legal Director, Montana ACLU, provided public comment on the data regarding the sentencing rates of Indians vs. non-Indians in Montana.
- 02:03:27 Sen. Wolken concluded the discussion on perspectives on criminal justice in Indian country.

BREAK (reconvened at 10:52 a.m.)

COUNCIL OF STATE GOVERNMENTS (CSG) JUSTICE CENTER PRESENTATIONS **Initial Data Analysis; Observations From Site Visits/Discussions; Comparisons With Other States**

- 02:19:25 Sen. Wolken introduced the presenters to the commission members.
- 02:20:39 Karen Chung, CSG (**Exhibit 3**) (**Exhibit 4**)
Note: Exhibit 3 was distributed to the commission members prior to the meeting. However, Exhibit 4, which is an updated version of Exhibit 3, was used during the presentation. Please refer to Exhibit 4 as it correctly reflects the content of the presentation and commissioners' questions.
- 02:29:08 Chris Fisher, CSG, continued presentation on the initial data analysis.

Commission Questions of Mr. Fisher

- 02:38:59 Rep. MacDonald asked about changes in the definition of the misdemeanor crimes, as well as about offenses related to firearms.

02:41:01 Mr. Fisher continued his presentation.

Commission Questions of Mr. Fisher

02:43:34 Sen. Hansen asked about the data on total arrest charges reflected on page 10 of Exhibit 4.

02:45:24 Mr. Fisher continued his presentation.

Commission Questions of Mr. Fisher

02:52:02 Sen. Wolken asked to clarify terms used on page 13 of Exhibit 4.

02:52:29 Commissioner Gustafson answered Sen. Wolken's question.

02:54:12 Commissioner Ohman asked where would civil contempt warrants fall within the graph on page 13 of Exhibit 4.

02:55:12 Mr. Fisher continued his presentation.

Commission Questions of Mr. Fisher

02:56:15 Commissioner Ohman asked to confirm that all misdemeanor drug offenses data on page 14 of Exhibit 4 are related to marijuana abuse.

02:58:44 Sen. Hansen asked whether the total arrests number reflected on page 15 of Exhibit 4 is automation driven vs. actual arrest driven.

03:01:18 Commissioner Gibbs asked to confirm that the statistics are based on the number of arrests and do not include number of convictions.

03:01:41 Mr. Fisher continued his presentation.

Commission Questions of Mr. Fisher

03:14:14 Director Batista asked about high risk and low risk offenders with respect to the Law Enforcement Assisted Diversion (LEAD) program that Mr. Fisher introduced. Director Batista also asked whether data show what kind of drug offenses are better suitable for pre-trial programs, such as LEAD, and which programs may prove to be ineffective.

03:16:28 Sen. Hansen asked whether it would make sense for an officer to decide on the spot who is an abuser and who is an addict.

03:23:08 Commissioner Gibbs asked about recidivism and data on deaths from drug overdose with respect to the LEAD program.

03:27:08 Mr. Fisher continued his presentation.

LUNCH (reconvened at 1:03 p.m.)

Responses From Invited Stakeholders

04:29:52 Sen. Wolken called the commission to order and introduced Mark Murphy, Montana Chiefs of Police Association, Montana County Attorneys Association

04:30:22 Mr. Murphy

Commission Questions of Mr. Murphy

04:47:14 Sen. Wolken asked about the county attorneys helping to relieve some of the

04:50:48 pressure on the jail system.
Sen. Hansen asked whether there is a supply side part of this problem that Montana is not addressing.

04:56:01 Mr. Fisher resumed his presentation.

Commission Questions of Mr. Fisher

05:02:50 Sen. Hansen asked about the meaning of jail incarceration, as well as about statistics regarding the rising rate of jail incarceration in Montana reflected on page 20 of Exhibit 4.

05:03:59 Mr. Fisher continued his presentation.

Commission Questions of Mr. Fisher

05:16:32 Rep. MacDonald asked to elaborate on Utah's experience with the risk assessment.

Commission Discussion on Data Provided by CSG

05:19:03 Commissioner Gustafson provided her observations with respect to the court caseloads, pre-trial risk assessment, as well as asked about 'failure to appear' data.

05:23:59 Commissioner Ohman provided his feedback about the data discussed during the CSG presentation.

05:31:17 Commissioner Ries provided her feedback on victims' rights and the lack of community resources in rural areas.

05:36:13 Sen. Hansen commented on her experience and asked for feedback with respect to deferred prosecution agreement reflected on page 27 of Exhibit 4.

05:37:58 Commissioner Ries provided her comments about deferred prosecution agreements.

05:39:13 Commissioner Gustafson also addressed Sen. Hansen's request for feedback.

Commission Questions

05:42:14 Rep. MacDonald asked Mr. Fisher and Ms. Chung to address the issue that Mr. Murphy referred to with regards to Justice Reinvestment Strategies.

Public Comment

05:50:01 Steve Cape, Executive Director, Montana Coalition for Safety and Justice, spoke about crime prevention and about means to prevent recidivism, specifically.

05:55:50 Deb Matteucci, Executive Director, Montana Board of Crime Control, addressed some points regarding statistical data analysis presented during today's meeting, as well as some of the questions commissioners had regarding different types of drug offenses. **(Exhibit 5) (Exhibit 6) (Exhibit 7)**

06:03:05 Jim Taylor, Legal Director, Montana ACLU, encouraged the commission to have a conversation that would result in more restorative models of justice.

Committee Questions of Ms. Matteucci

06:08:31 Sen. Wolken asked about the costs of the uniform system that Ms. Matteucci discussed.

RECESS

06:10:30

With no further business before the committee, Sen. Wolken announced recess at 2:40 p.m.

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