

Last of the

The Defender: Coronavirus Edition

A mini newsletter



Corona week 30
October 9, 2020

Chief's message

Dear fellow Defenders,

Was there ever a time B.C. (Before COVID)? It seems forever since we public defenders dropped into each other's offices, met with clients or their family members face to face, got our business done in crowded courtrooms, went to the jails, and paced in front of jury boxes making our final (usually winning) arguments. It's been a while since we could pause by someone's desk and ask about their kids and family, or meet at happy hour to talk about the latest news from the courthouse. And that way of practicing, working and relating may never come back just the way it was.

Over the past few months I have made it a point to travel – while maintaining social distancing – to many of our offices around the state, so that I could communicate with you about the issues that concern us all: how we can continue to represent our clients at a high level, how we balance responsibilities to family and work, whether the state will maintain our budget, how we face the necessity to reimagine our work for our new world.



I was in Gallup and Aztec this week (see some pics I took), Carlsbad and Hobbs before that.

And while this new way can sometimes be lonely and burdensome without our normal visiting and with the other challenges, it has spurred our creativity. We are becoming creative with the use of phones and video and have more opportunities to communicate with many clients. In some ways, we are "Zooming" together as a true statewide LOPD more than we ever have.

Continued...

Focus on Appellate Division

Take this scenario: a woman is charged with child abuse after police say she was speeding with children in the car as they were following her. The woman says she didn't know police were behind her and she was trying to get away from an aggressive tailgater.

In the hands of the woman's LOPD trial attorney, the case would focus on her innocence and convincing the jury that the woman is telling the truth. The goal is to get a not guilty verdict.

That same case in the hands of LOPD's Appellate Division would focus on whether speeding with a child in the car is actually child abuse. The goal would be to overturn a conviction and help make case law that ultimately helps future clients avoid injustice, too.

"We often tell a totally different story on appeal. At trial, the lawyers are telling the jury the story of the crime itself, but we're usually telling a story about the trial," said Kim Chavez Cook, who heads up LOPD's Appellate Division.

Continued...

Chief's message

We waste less time travelling hours to and waiting in courtrooms for useless five-minute hearings. Many jails are cooperating with us to make our clients available for phone or video talks in ways they never did in the past. Jail populations and arrests are still down in most parts of the state, and we are working to capture the changes in policing and prosecuting where we see them. Our legislative team is working with allies to attack the system of fines and fees that keep our indigent clients in cycles of incarceration, to reduce the penalties for simple possession of drugs, and to restructure the way society looks at public safety. And HR, IT, and Fiscal continue to find new ways to support our people and our mission. We didn't fall apart as a community. We really did unite. And that's inspiring.

And speaking of inspiring: in this edition of the newsletter we get to highlight the Appellate Division here at LOPD. They are a really unique group of people who use their specialized skills to help their clients, and to support every criminal defense attorney in New Mexico. I also want to congratulate their leader, Kim Chavez Cook, who has been honored with the Attorney of the Year Award from the ACLU of New Mexico.

Finally, this will be the last "special" Coronavirus Edition of our newsletter. Thank you Maggie Shepard for making it such a truly special way to keep in touch in Corona Times. We've made it through just over six months of the special Coronavirus Edition newsletters and seven months since the pandemic hit. At some point the coronavirus should not continue to define us. So going forward, Maggie will continue to coordinate and produce "The Defender" every two months.

Thank you everyone for hanging in there, for representing our clients so well, and for being creative, kind, thoughtful and supportive with each other.

- Ben





Appellate Division

Caitlin Smith
William O'Connell
Victor Sanchez
Charles Agoos

Kim Chavez-Cook
Mary Barket
Joelle Gonzales
Luz Valverde

Allison Jaramillo
Nina Lalevic
Matthew Edge

Not pictured:

Staff Office Manager Michelle Romero, paralegal Felisha Montoya, secretary Francesca Deaguero and Albuquerque secretary Louise Gurule
Attorneys Kate Baldrige, Steve Forsberg, Mark Peralta-Silva

Appellate Division continued

The division is a statewide group of 17 attorneys and four staff. It handles nearly all cases that end in conviction at trial, appeals from conditional pleas, and state's appeals.

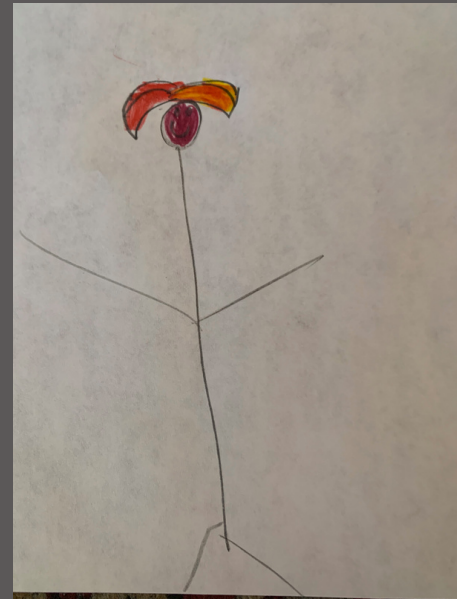
"We are a part of the relay team, trial attorneys pass the baton to us and we take it to the appellate courts," she said.

New Mexico's Court of Appeals is unique – and not just because there is a big backlog in cases. Here, there are two different tracks for cases and the court decides which a case goes on: one for cases the court considers more open and shut and one for cases in which there are questions that might need to be settled. For the open and shut track, LOPD attorneys aren't automatically given the case transcripts and record, as they are on the other track. That means for the attorneys to try to win, they have to hunt down the case information. That leads them to one of their least favorite parts of the job, "pestering" the trial attorneys who can sometimes feel judged by their inquiries like, "did you object to such-and-such."

But that isn't the intention and it's not a judgement, they say. They just need to be able to tell the Court of Appeals a full account of what happened.

"We recognize that trial attorneys are arguing on their feet and a lot of times they are doing their best to create the record for us to look at. We have a lot of empathy for that ...and what they are dealing with on their feet with bizarre rulings from the court," said appellate attorney Luz Valverde.

Chavez Cook, who also works on LOPD's legislative team, said she wants trial attorneys to think of the Appellate Division as a resource for them, with an attorney on duty every week to answer legal questions and to answer emergency trial questions.



Attorney Kate Baldrige was not available for a photo, so her child rendered this of her.

The division has an office in Santa Fe and four attorneys work in Albuquerque. Like the rest of LOPD, many in the division are working via Zoom to gather information and write their arguments for making New Mexico's law better for our clients.

"In addition to getting a good result for individual clients, we want to try to make the law better," Chavez Cook said.

That would mean a conviction in the woman's child abuse case is overturned, she is freed and no one else is charged with a crime that same way.

Babies!



Albuquerque attorney Sean and wife Katherine Beherec and big sister Jacqueline welcomed baby Peter Dawson Beherec on Sept. 24.

Albuquerque attorney Lindsey Rosebrough and husband Mark welcomed baby Carson Buchanan Rosebrough to the world and LOPD family Sept. 9.



Albuquerque attorney Julpa Davé and husband Tim Wilcox welcomed baby Leena Wilcox on July 6.



Appellate attorney Caitlin Smith, husband Brian and big brother Ray welcomed baby Milo Abraham Smith on Aug. 30.



NM ACLU's Attorney of the Year is ...

The ACLU of New Mexico has selected LOPD's Appellate Defender Kim Chavez Cook as their Attorney of the Year for 2020 for her "tireless work on behalf of incarcerated people."

"Kim has worked on criminal justice legislation for years now, and her argument this spring before the New Mexico Supreme Court on our motion to try and force the State to safeguard incarcerated New Mexicans was masterful," Chief Ben Baur said.

Chavez Cook will be honored with the award during the group's Bill of Rights Celebration on Dec. 6.

Director Peter Simonson noted Chavez Cook's "masterful" representation of the group working to get incarcerated people free from prison at the start of the coronavirus pandemic.



Use your annual leave

State rules allow employees to carry over up to 240 hours of annual leave each calendar year. Hours over that are automatically deleted when payroll is run in early January. So, coordinate with your supervisor to use your annual leave hours if you are at risk of losing them because of this state rule. Additionally, our personal day must be taken by December 31st of each year or it will be lost. Take care of yourself. Use your annual leave.

New Defenders Forum/Zoom Happy Hour

LOPD public defenders in practice for 3 or fewer years are invited to join the New Defenders Forum/Zoom Happy Hour, a national group partially hosted by our own Dayna Jones, MA for Alamogordo. This will be completely private and confidential and open only to public defenders. Join defenders from around the country for a candid chat. Vent, ask us what you want, and grab a drink!

Presently the panel is being led by four different defenders representing New Mexico, Florida, New York, and California. You will not be paired with a panelist from your office in order to facilitate more open discussion.

[Go here to register](#) or email Dayna Jones for more info at dayna.jones@lopmn.us.

Former PD selected as magistrate judge in Hobbs



Nechama Mincowicz, an attorney out of the Hobbs office will be moving on to be a Magistrate Judge in Lea county. Nechama was appointed to replace Judge LaBree, who passed away during his term on the bench. In her time as a public defender, Nechama has shown great dedication to justice, caring about her client's legal needs, as well as their personal welfare. Our office will sorely miss her for her constant search for knowledge for herself, her colleagues, and our clients -- 9th District Defender Ibukun Adepoju

Shots in Abq

Tuesday, October 13

10-12:00 p.m.;

On 1st Floor (not 11th floor) and the 8th Floor
Masks & Social

Distancing required

For more information,
call Bill Lord @ 505-514-5669



**UPCOMING
FLU SHOT CLINIC AT:
NM State Capital**

Flu Season is upon us once again and the Stay Well Health Center (SWHC) is prepared to get you Flu-Season ready by providing a FREE Walk-In Flu Shot Clinic at the **LOPD** for all covered members. **Face masks and Social Distancing REQUIRED.**

Date: Tuesday, October 13th
Time: 1:00PM – 3:00PM
Location: Law Offices of the Public Defender
301 N. Guadalupe St., Suite 101, Santa Fe

SoNM INSURANCE CARD REQUIRED

THE STAY WELL HEALTH CENTER (SWHC) IS HERE FOR YOU!
Members and their covered family (2yr+) can always receive a flu shot at the Stay Well Health Center Monday – Friday, 7AM – 6PM with an appointment. [Call 827.2485.](tel:827.2485)



Virtual recovery

NM DEFENDERS IN RECOVERY, a virtual recovery meeting, will be held every Friday at 6 p.m. via Zoom. For the Zoom link, more information or for links to other virtual recovery resources, you can contact Craig Acorn at craig.acorn@gmail.com or 650-283-0694; Jennifer Birmingham at Jbirmingham2112@gmail.com or 575-288-7958. This is not a department-sponsored effort. Anonymity is strictly honored.

To contribute, correct, compliment or criticize newsletter content, or to talk to LOPD Communication Specialist Maggie Shepard, contact her at maggie.shepard@lopdm.us or (505) 690-4529. All newsletter content is compiled by Maggie Shepard and approved by LOPD leadership.