

THE DEFENDER

*Newsletter of the
New Mexico Law Offices of the Public Defender*



Message from the Chief

As public defenders, we tend to focus intently on our clients and their cases. But being a public defender doesn't stop in the courtroom. Many of our attorneys and staff do things that let our communities know that we are with them and part of them. As you'll see in this edition of The Defender, our attorneys are out and about a lot.

We're just coming off of four weeks at the New Mexico Roundhouse, where many of us worked really hard to remind legislators that we are a crucial part of our communities and that we are part of solving community problems. We spent hours talking to elected officials and their staff. We made connections with others to support bills to better fund behavioral health resources, foster care, law enforcement assisted diversion programs and competency evaluations. It's not direct work with a client, but it's supporting programs that ultimately support our clients.

There's also work and activism which makes our communities better places to live, like the

Legislative roundup

LOPD fared well in the just-concluded 2020 Legislative Session, securing a healthy budget increase and successfully blocking a lot of ill-advised bills seeking to increase criminal penalties. As always, LOPD's legislative team continued to engage lawmakers in a dialogue about public safety and criminal justice reform.

LOPD's initial budget request totaled \$62 million, an increase of \$6.5 million (11.8 %) over last year's budget. The department concluded with a 5.2% increase for a total of \$58.4 million. That is in addition to 4% salary increases for all state employees for the coming fiscal year.

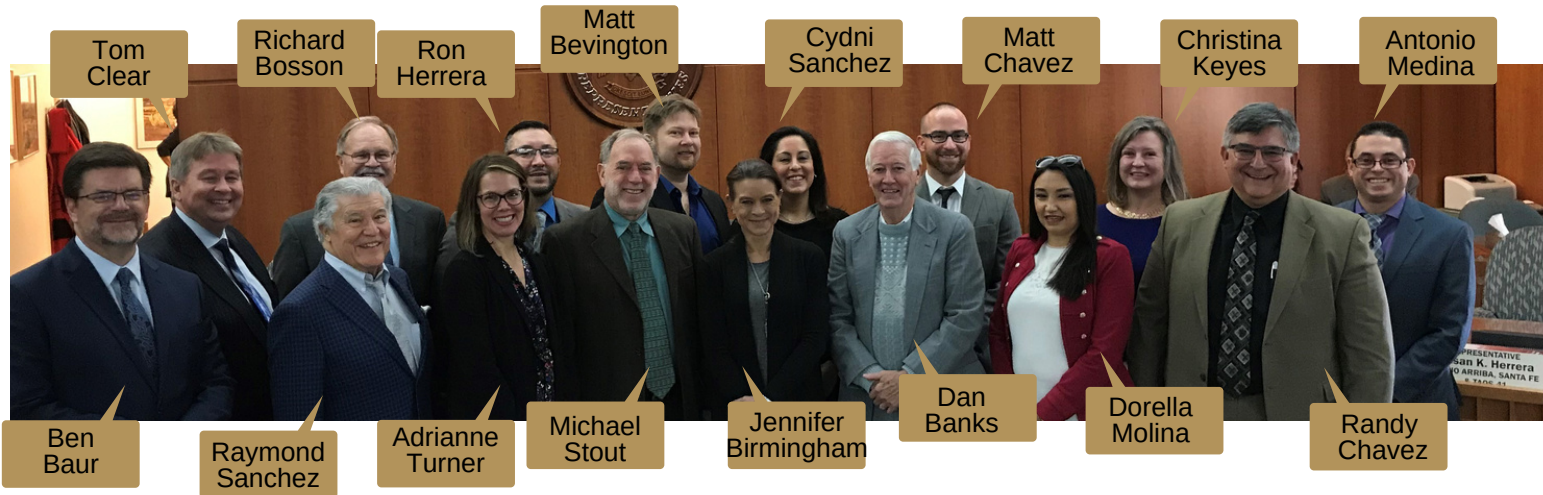
"We're talking about how to best use the monies that the legislature appropriated to us," Chief Ben Baur said, with an eye toward filling positions, getting fully staffed and getting adequate compensation for our contract counsel.

The money also includes \$2.1 million for a document management system, which will allow us to scan many of the old files that are cluttering the offices.



photo by Eddie Moore

LOPD's team at the session



As far as criminal legislation goes, there were a number of new crimes and increased penalties that were proposed which we successfully defended against, along with our allies at NMCCLA and in the New Mexico SAFE coalition (including the ACLU and other policy and community groups).

The only penalty increase that came through was in the governor's crime package, which narrowly increased the penalty for felon in possession of a firearm. That bill also increased the length of firearm sentencing enhancement but narrowed when they can be used and made them non-mandatory in the process.

"In some ways they really don't harm our clients as much as they could have," Baur said.

Last year's probation and parole reform effort continued in a new form this year after last year's bill was vetoed based on resistance from the DAs. This year's effort did not pass.

"We're hopeful that in next year's session, real probation and parole reform can be achieved," Baur said.



Message from the Chief, continued

work of Nate Banks, Deirdre Ewing, Debra Lautenschlager and Nicole Hall described in this edition, and all the other work I know happens with such deep dedication amongst our LOPD staff.

It is indeed our core mission to represent our clients. But that work isn't done in a vacuum, and these community engagements, this political work is important for what we do, too. It's good for our communities (because who doesn't benefit from having one of you lending your skills). It's good for the department, because the more we become involved in our communities as residents and let them know of the value of indigent defense, the easier it is to show why what we do should be valued by all of them. That ultimately helps us get the resources that are necessary for us to perform our core mission. Finally, it's just ... good for us. It reminds us why we do what we do, and that makes us better public defenders. Thank you all for what you do for the LOPD and for your communities.



Nate Banks inspires at MLK Jr. event

Carlsbad Managing Attorney Nate Banks, at the invitation of the mayor of Carlsbad, was the keynote speaker for the Carlsbad Martin Luther King, Jr. Scholarship Fund Banquet on Saturday night. Fifth District Defender Deirdre Ewing and Chief Ben Baur attended.

"Deirdre and I were proud to attend the event to support Nate and to be inspired by him – and to see how much he inspires the community of Carlsbad," Baur said.

Nate spoke movingly about the participation of his father, Augustus Banks, in the civil rights movement, during which he attended the March on Washington and marched in Selma, where he was attacked by police dogs and jailed. Nate's powerful speech held the audience as he spoke about learning lessons from his father and about how our generations can follow the road set out for us.



LOPD representing



Debra Lautenschlager, Roswell's managing attorney, and Deirdre Ewing, 5th District Defender, left, spoke at the Chaves County Bar Association lunch on Feb. 17, sharing LOPD's mission, the workload study and the need for resources behind it, and our place in the larger community.

The duo also talked about changes in the direction of the office over the last few years, including our taking up representation at jail arraignments and felony first appearances, our work to treat our clients holistically and get them connected with services, and our work with the local mental health court.



Save the date

The 2020 LOPD Annual Conference has been set. Save the date for Monday and Tuesday June 15-16 at the Albuquerque Marriott Pyramid North. This year's conference will host attorneys, investigators, social workers — and staff.

Leadership training



Chief Ben Baur addresses nearly every district defender and managing attorney in the department as they gathered for special leadership training earlier this year.

The training was part of a series of workshops hosted with special leadership coach Vince Brush. →

Brush has been working with what the DDs and MAs dubbed "The Power 5" leadership team of Ben and the deputy chiefs to help them formalize the agency vision and mission.

Another training is scheduled for March.



HBO show highlights Aztec attorney's community work

An "unscripted series" show slated for HBO visited the Aztec office to feature LOPD attorney Nicole Hall and her community work in Aztec.

The show's producer said they'd heard about Hall's LGBTQ community work and wanted to connect with her.

The series will be coming out this Spring and we'll share the details when it comes out. But for now, we'll just say it involves some fabulous

drag queen fun.

"Filming was so much fun. Everyone we met was so nice and made me feel really comfortable sharing my story. They did film my first ever jury trial, which I think made me even more nervous," Hall said. "I feel so lucky that I was chosen to be featured in the series and hope that my story inspires people all over the world."



Aztec attorney Nicole Hall

Charlie's closet



CLIP student Cody Morgan tries on suits donated by the family of the late Justice Charles Daniels.

Tax time with HR

It is tax time (or soon to be if you have not started) and you may be scrutinizing how much money has been withheld and hoping to adjust the amount for next year.

Your HR team would like you to know that there is a new form to use for withholding changes. The main difference with this form from the previous form is that it uses a dollar amount for the withholding instead of a number, such as 0, 1 or 2, for your withholding.

For questions call your Human Resources Administrator or email LOPD-HR@lopdm.us Your HR team would also like to remind you to always look at your paycheck to make sure it is accurate.

The habeas hideout



At a recent leadership training, Post Conviction/Habeas Unit Managing Attorney Amanda Stephenson joked, albeit seriously, at being a hidden, maybe even a forgotten unit.

Does anyone know we're here? Does anyone know what we do? she said.

The answer is yes, obviously, but she's not wrong that her unit and their important work feel forgotten. After all, that is who their clients are.

The forgotten. The done with. Those for whom nearly every court process has been exhausted. Those who sit in New Mexico prisons and hope for some relief to prison bureaucracy gone awry or for some nibble of justice in their mismanaged case. Habeas is often the last chance of attack available to a client.

But it's a long, slow process and is often misunderstood, Stephenson said.

Habeas attorney Deborah Horne says people assume the unit is part of the Appeals Unit.

"But we're completely different," she said.

Appeals Unit doesn't handle prison issues and they can only work with what is on the court record. Habeas attorneys can investigate.

Also, unlike in all other public defense cases there is no constitutional right to counsel on habeas cases.

Habeas, or post-conviction, cases are brought by inmates who file specific petitions, called Rule 5-802 Petitions, with a judge. The judge forwards those petitions to LOPD's Habeas Unit.

Habeas continued

Then Stephenson, attorneys Deborah Horne, Matthias Swonger and Sarah Plazola, and paralegal Tanya Gonzales, meet biweekly and discuss the petitions for merit.

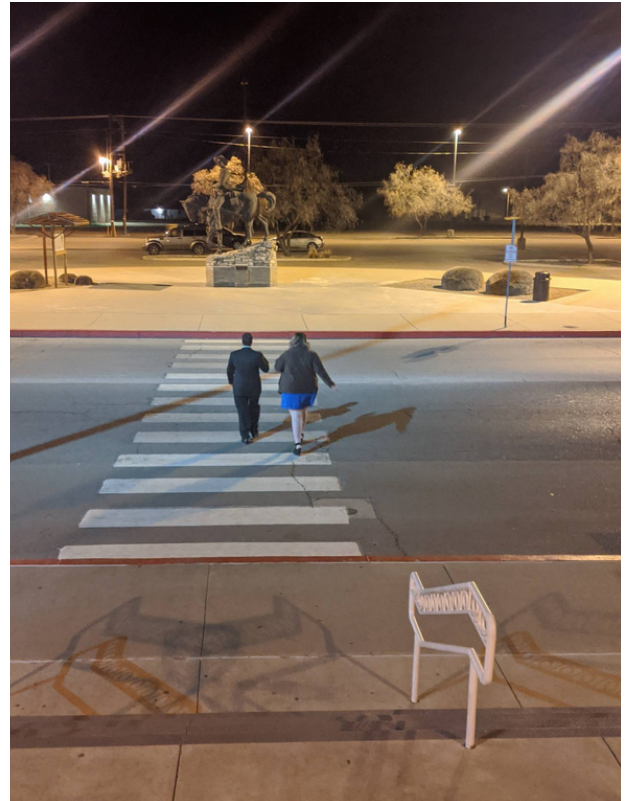
The cases they take fall in two categories: conviction and confinement. That means they take cases that are either about issues regarding what's happening to an inmate in prison, such as good time being taken away, substandard medical care, religious violations, and other quasi-civil rights issues, or what happened in an inmate's criminal case, such as ineffective assistance of counsel, illegal or miscalculated sentencing, double jeopardy issues and sometimes actual innocence.

Stephenson says the timeline for habeas cases is unique and important. Once their unit decides a case has merit, an attorney is assigned and has 45 days to submit a first review to the court. If the court appoints the Habeas Unit to the case, the habeas attorney has 90 days to file an amended petition and then the state gets 120 days to respond.

"Habeas work is an uphill battle. Rarely do we see full cases overturned. However, we have made a huge impact for clients. Clients are grateful for even small wins that shave a few days off their sentences," Stephenson said.

Lately, Stephenson said her unit, which operates out of Albuquerque and has its offices on the first floor, has seen an increase in petitions filed by sex offenders not being credited for parole served in prison while they wait for placement.

But, she said, "drumming up support for this class is difficult. No matter their crimes, convictions, background, sex offenders have human rights that need protecting too. I continue to do habeas work so no one is forgotten."



MCU attorney Ira Shiflett grabbed this picture of his client leaving the Roswell courtroom after a jury found him **not guilty** of CSPM. This client spent 10 1/2 months in jail on pretrial detention and was looking at a 15 year prison sentence. "He walked out of the court house with me after the jury came back after dark with a not guilty verdict," Shiflett said. Roswell atty Joanne Angel second-chaired.



Social media is HERE

LOPD is finally on Twitter and Facebook. We could even grace the rails of Instagram soon. Stay tuned on that. You can find us on Twitter with @NMDefenders and on Facebook by searching for NM Law Offices of the Public Defender.

LOPD Anniversaries

Celebrating 1, 5, 10 15, 20+ years

** some anniversary dates include years at other state agencies. It's difficult to separate.

10 Years

Joe Rodriguez
investigator Carlsbad

5 Years

Perry Klare
attorney Albuquerque misdemeanor

1 Year

Brenda Franco, legal associate Clovis
Rebekka Kincaid, secretary Abq misd.
Mario Chavez, HR
Susan Garcia, HR
Ashley Lambert, Hobbs attorney
Jonathan Nyce, investigator Aztec
Sadie Stidstone, secretary Abq
Richard Luman, investigator Clovis

Patricia Mata, legal associate Hobbs
Doreen Ortiz, paralegal Abq
Maggie Shepard, communication specialist
Marie Tapia, financial assistant
Kimberly Knox, attorney Abq misdemeanor
Jacob Ort, managing attorney Clovis
Victor Sanchez, appellate attorney
Deborah Varol, attorney Santa Fe

Team changes

Hello and welcome to:

Angel Rivera, secretary Clovis
Andrea Miles, social worker juvenile
Shawna Rosales, secretary appellate
William Garza, investigator Alamogordo

Arlene Ortiz, financial specialist in fiscal
Elizabeth Rogers, secretary Albuquerque
Charlene Romero, secretary Albuquerque

Thank you to Cassandra Montoya for compiling these lists.

If your name was somehow left off a list, please know it was not on purpose. Just let Maggie Shepard know and she'll make it right in the next newsletter.

Leadership changes

Jennifer Barela takes on Abq District Defender post



Jennifer Barela has been selected as Acting Albuquerque District Defender.

"I am honored to take on this new challenge as Acting District Defender, and I would like to thank Chief Baur for this opportunity. I would also like to thank Jeff Rein for his dedication to this position during his time as District Defender," she said.

Jennifer has been with LOPD since right out of UNM School of Law in 2002, though she took a brief break for private practice and federal public defense. She has most recently served as managing attorney in felony since 2017.

"The Bernalillo County criminal justice system has made significant changes over the past several years including the case management order and most recently moving from a grand jury system to a preliminary hearing system. These changes have been positive for our clients," she said.

Christina Keyes selected as new Chief Financial Officer



Christina Keyes joined the LOPD Fiscal Department at the end of November as the Fiscal Director. She was promoted in January to Chief Financial Officer.

Christina holds an MBA in finance and a bachelor's degree in English (technical writing/editing) and history with a minor in German. She brings vast experience with 20 years in finance, accounting, budgeting and investments. Most recently, she was the Treasurer for the City of Santa Fe, an economist with the Legislative Finance Committee; and the Portfolio Manager of the \$2 billion Real Returns (Oil, Gas and Natural Resources) Portfolio for the Public Employee's Retirement Association.

Christina and her husband reside in Santa Fe.

Liz Holmes takes reins of Training and Recruitment

Liz Holmes is moving into the position of Training and Recruitment Director. She'll be taking over in late February as she transitions out of her position as a supervising attorney in the Albuquerque Felony Division, where she also oversees a full case load.

Liz has been at LOPD since 2013, when she joined the Metro Division. Before LOPD, Liz spent a varied career in government service including time with the New Mexico Department of Agriculture at NMSU working in governmental affairs and the Legislative Council Service. She was also a flight attendant with American Airlines based in Washington, DC.

She holds a bachelor's degree in history from University of Colorado at Boulder and a JD from University of Detroit Mercy in Detroit, Michigan. She was admitted to the New Mexico Bar in September 2008. In the Fall of 2019, Liz became a coordinator for the UNM School of Law Criminal Law in Practice (CLIP) course.



Abq Metro Managing Attorney Tonie Abeyta works with Javier Amaya to help recruit at the UNM School of Law Career Fair in early February.

Commission meeting

Friday, March 27 at 10 a.m.
11th Judicial District Court
103 South Oliver Drive
Aztec, New Mexico