

**NEW MEXICO PUBLIC DEFENDER COMMISSION  
MINUTES OF APRIL 9, 2021 GENERAL MEETING**

- I. Call to Order: The New Mexico Public Defender Commission Meeting was called to order by Chairman Thomas J. Clear, III, on Friday, April 9, 2021, at 10:36 am.
- II. Roll Call: Public Defender Commissioners  
Thomas Clear, Chairman  
Raymond Sanchez, Vice Chairman  
Daniel Banks, Secretary  
Justice Richard Bosson, Ret.  
Hugh Dangler  
Naomi Salazar  
Michael Sanchez  
Melissa Sawyers  
Michael Stout  
Judge Michael Vigil, Ret.
- III. Introduction of Guests:  
Chief Public Defender Ben Baur  
Deputy Chief Phillip Larragoite  
Deputy Chief Cydni Sanchez  
Deputy Chief Randy Chavez  
Deputy Chief Jennifer Birmingham  
Ronald Herrera, Human Resources Director  
Adrianne Turner, General Counsel  
Christina Keyes, CFO  
Antonio Medina, Budget Director  
Matthew Bevington, IT Director  
Maggie Shepard, Chief Information Officer  
Julie Kitch, Programs Administrator  
Elizabeth Holmes, Training Director  
Julie Ball, 1<sup>st</sup> Judicial District Defender  
Jennifer Barela, 2nd Judicial District Defender  
Deirdre Ewing, 5th Judicial District Defender  
Matt Cockman, 8<sup>th</sup> Judicial District Defender  
Matthew Chavez, 12<sup>th</sup> Judicial District Defender  
Jonathan Ibarra, Albuquerque Felony  
Dayna Jones, Alamogordo Managing Attorney  
Arlene Ortiz, Fiscal  
Marie Tapia, Fiscal  
Gary Mitchell, Esq, from Ruidoso

*Approved 8/13/2021  
Thomas J. Clear  
Chairman*

IV. Adoption of Agenda. Moved by Commissioner Michael Stout; seconded by Commissioner Melissa Sawyers. Motion passed unanimously. (Agenda attached)

V. Adoption of Minutes of February 5, 2021 Meeting. Secretary Dan Banks Moved by Commissioner Secretary Dan Banks to approve the minutes of the Commission meeting on February 5, 2021; seconded by Commissioner Vice-Chairman Raymond Sanchez. Motion passed unanimously. (Minutes attached)

VI. Report from Commission Chairman: Thomas J. Clear, III

A. Budget Request Update: Chairman Clear opined the Legislative Session was interesting and was good for LOPD clients and for indigent defense. Chairman Clear gave high praise for the leadership and hard work of Deputy Chief Philip Larragoite, and commended the hard work of our Chief Public Defender, Ben Baur, of our CFO, Christina Keyes, and of our Deputy Chief, Cydni Sanchez. Chairman Clear told Commissioners he has heard from different legislators and from the financial analysts, that the LOPD is the best reporting agency in the state. Chairman Clear indicated the funding shows a continued growth. Chairman Clear discussed the Strategic Planning with the help of the Maryland Public Defender's Office.

B. Legislative Update: Senator Daniel Ivey-Soto: Chairman Clear introduced Senator Ivey-Soto and asked for his thoughts regarding the legislative session. Senator Ivey-Soto told the Commission the results of the change after the Commission was established are paying off. He directed attention to a report on the bills that went through the session prepared by Appellate Defender Kim Chavez Cook. Senator Ivey-Soto emphasized that while not a lot bills passed, no bill that was opposed by LOPD passed. Senator Ivey-Soto indicated the work of and presence of Kim Chavez Cook, the dedication of Chief Baur, and the advocacy from the Commission and its Chairman is yielding tremendous fruit; things are going as well as could be imagined.

Senator Ivey-Soto highlighted a few bills that passed through the Legislature during the session:

1. HB4, The New Mexico Civil Rights Act, which allows people to vindicate rights through the Bill of Rights of the State Constitution. Justice Bosson was extremely active in moving that bill through.
2. The no fines and fees for some of the juvenile crimes and trying to deal with some of the fees and fines for adult offenders as well.
3. The Uniform Collateral Consequences of Convictions Act, where Defendants need to be informed of the collateral consequences of their conviction. The AG's office is responsible for assembling these collateral consequences.

4. The content of the HB-96, The Criminal Records and Public Employment or Licensure.

5. Some expungement legislation: the ability of people seeking expungement to be able to file their expungement under seal or under a pseudonym, and automatic expungement.

Senator Ivey-Soto concluded by saying “But I do want to emphasize that the seeds that have been planted over the years and the tending to that garden of criminal justice reform has been yielding fruit.”

#### VII. Report from LOPD Chief: Bennett Baur

A. NAPD Virtual Conference and Training: Chief Baur began with reporting on COVID. He told the Commission that LOPD is still operating under COVID conditions as well as the Courts. The Administration’s focus has been the safety, health of our employees, and supporting them in how to balance the work with their lives. Bernalillo County made vaccinations available to all LOPD employees. Chief Baur thanked Bernalillo County for their assistance.

Chief Baur explained the effort to establish and write a Strategic Plan with the assistance of NAPD.

B. Statewide Update: Chief Bauer announced that, as it passed out of the Senate Finance Committee, LOPD’s budget will be \$57,230,00, which represents an increase of 1.8%. In addition to that recurring money, LOPD received a special appropriation for s \$550,000 which can be used for the rest of this fiscal year and for the next year. LOPD also got an additional \$50,000 recurring money for rural representation. Additionally, the budget includes \$1,070,000 for the second portion of the document management system project. Finally, LOPD received a one and a half percent salary increase for employees.

Chief Baur discussed the Workload Study undertaken in conjunction with the American Bar Association. LOPD received funding from the legislature for some of this endeavor. Its purpose is to create accurate data so that the public and lawmakers can understand and appreciate the incredible amount of work done by our lawyers and our staff and how much more they need to do to actually provide effective assistance to each indigent client.

C. Twelfth Judicial District Issues: Chief Baur discussed issues taking place in the 12<sup>th</sup> Judicial District. He reported that the 12th Judicial District dockets are set in a way that makes it impossible for our attorneys to adequately represent each individual client in each individual case. LOPD has created a working group which includes Chairman Clear, Chief Baur, General Counsel Adrienne Turner, District Defender Matt Chavez, Managing Attorney Dayna Jones, Contractor Todd Holmes and Gary Mitchell. Matthew Chavez, 12th Judicial District Defender, Dayna Jones, Managing Attorney for the Alamogordo office, and Gary Mitchell, private attorney in Ruidoso, addressed the Commission and commented that the District Judges appear

to want to show the rest of state that the 12<sup>th</sup> Judicial District can move faster and better on these COVID-affected jury trial trials than can any other Judicial District in New Mexico. The judges established long trailing dockets scheduling all of their pending cases and expect the lawyers to somehow be ready to resolve the cases or go to trial on everything. One of the judges made a comment at one of these meetings, which sums it all up. "If we can set 200 or 300 cases, then we know we're going to get a 100 to 150 of them resolved." Clearly, the court is turning the district into a plea mill which is not favored and inherently not fair to indigent defendants.

VIII. Public Comment: There was no Public Comment.

IX. Executive Session. Commissioner Michael Stout moved for Executive Session, Second by Vice-Chair Raymond Sanchez. The motion passed unanimously. Commissioner Richard Bosson moved to rise out of Executive Session, Second by Commissioner Michael Stout. The motion passed unanimously. Chairman Clear certified that discussion was limited to only those matters described in Agenda item 9.A.1. and pending litigation pursuant to Section 10-15-1.H-7, N.M.S.A., and the employment contract with the Chief Public Defender was discussed in executive session.

#### X. Committee Reports

A. Litigation Committee: Chairman Michael Vigil indicated the Committee would be meeting once the data collection process was further along.

B. Legislative Committee: Commissioner Raymond Sanchez indicated the Legislative report was included in Senator Daniel Ivey-Soto's presentation report.

C. Budget and Finance Committee: Chairman Michael Vigil indicated the Budget Committee was beginning its work on the next budget.

D. Contract Counsel Committee: Chairman Michael Stout advised Contract Counsel Committee will be meeting on the April 22, 2021 at 11:00 a.m. Deputy Chief Randy Chavez related that there has been a significant increase in the number of murder cases, which is nearing 50 for the year.

XI. Review of Chief's Contract and Extension: Commissioner Michael Stout moved the Commission to offer an employment contract to Chief Public Defender Ben Bauer for the next four years, beginning July 1st, 2021 through June 30th, 2025, at the rate of \$160,000 per year. Commissioner Naomi Salazar seconded the Motion. The Motion passed unanimously.

XII. Upcoming Events: Chairman Clear tentatively announced the next meeting as Friday, June 4, 2021 at 10:30 a.m., if necessary at that time ... watch for e-mail updates.

XIII. Adjourn: Motion to adjourn by Commissioner Naomi Salazar; Second by Commissioner Melissa Sawyers. Motion passed unanimously. Meeting adjourned.