



New Mexico Public Defender Commission

Raymond Sanchez
Vice Chair

Thomas Joseph Clear, III
Chair

Daniel Banks
Secretary

Justice Richard Bosson, Ret.
Hugh Dangler
Traci M. Neff
Naomi Salazar

Michael Sanchez
Melissa Sawyers
Michael Stout
Hon. Michael Vigil, Ret.

NEW MEXICO PUBLIC DEFENDER COMMISSION MINUTES OF FEBRUARY 5, 2021 MEETING

I. Call to Order: The New Mexico Public Defender Commission Meeting was called to order by Chair Thomas J. Clear, III, on Friday, February 5, 2021 at 10:30 am.

II. Roll Call: Public Defender Commissioners

Thomas Clear, Chairman
Vice Chair Raymond Sanchez
Secretary Daniel Banks
Justice Richard Bosson, Ret.
Hugh Dangler
Traci Neff
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
Kim Chavez, Appellate Defender

Adrienne 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
Jennifer Barela, 2nd District Defender
Deirdre Ewing, 5th Judicial District Defender
Jonathan Ibarra, Albuquerque Felony
Teresa Edwards, Fiscal
Patrick Wilkins, RICCI & COMPANY
Corrine Clarkson, RCCI & COMPANY

IV. Adoption of Agenda. Moved by Commissioner Michael Stout seconded by Commissioner Naomi Salazar. Motion passed unanimously. (Agenda attached)

V. Adoption of Minutes of October 23, 2020: Secretary Dan Banks Moved by Commissioner Dan Secretary Banks. Seconded by Commissioner Melissa Sawyers. Motion passed unanimously. (Minutes attached)

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

A. LOPD 2020 Fiscal Year Audit: Christina L. Keyes, Chief Financial Officer. Ricci & Co.: Patrick Wilkins, Partner and Corrine Zajac-Clarkson, Audit Team Lead. After introduction, Ricci representatives presented the Audit summary: "There were no prior year audit findings that needed to be cleared this year. There were no current year audit findings. There were also no uncorrected misstatements. So in other words, there were no adjustments that did not get posted or corrected. There were no disagreements with management, and there were no difficulties in performing the audit. So this is exactly what you want to see." Commissioner Hugh Dangler moved to adopt the audit report. Second by Commissioner Michael Stout. Motion passed unanimously.

B. Upcoming Review of Chief's Contract and Extension: Chairman Clear reminded the Commission that Chief Baur's contract ends June 30, 2021. The chair would like to receive a report from Chief Baur on the progress that has been made during the last four years. The report would allow for a Commission review and decision how to proceed forward with either the renewal of the contract or if we want to go a different direction. Chief Baur was requested to provide the report before the next meeting.

C. Commission's COVID-19 Awards: Chairman Clear asked District Defenders to nominate those working within your Districts that need recognized for their incredible contribution to our efforts since this pandemic started 11 months ago. The Commission would like to honor them at an upcoming meeting. District Defenders were asked to provide input so that the Commission can review and present some cool awards.

D. Budget Request Update: Chairman Clear introduced and recognized Theresa Edwards, fiscal director for LOPD, who began working with the LOPD in March 2020. Previously, she spent the last five years as an analyst for the Legislative Finance Committee. Chairman Clear asked her to speak from her experience about the happenings at the Legislative Budget sessions.

Theresa Edwards told the Commission that the LOPD and indigent defense are in a really in a great spot. First, there are now some new champions for our agency with whom we can foster relationships going forward that will help us support our mission. Developing long term relationships with members will help support our goals going forward in a way that otherwise is very hard to achieve and maintain. Edwards believed a congratulations should be given for that achievement. Inviting members to our Commission Meeting in October 2020, before the session started, really made a positive impact.

Edwards indicated that the decisions of the financial legislative leadership gives a an opportunity to meet in a smaller setting allowing discussions with those House members as well as LFC leadership on what meaningful work we can accomplish with additional funding. Having and presenting the data that shows the positive impact on LOPD that targeted investments in programs such as geographic pay differentials for rural attorneys and increased rates for contract attorneys. LOPD will be able to show what this additional funding means for the agency and being able to argue for the highest level of financial support that will allow LOPD to move towards meeting the constitutional mandate. The opportunity to have an additional conversation with members in the LFC about the LOPD priorities is significant. With their support, our robust performance metrics and reporting that we have, which Edwards believes is really fantastic, and amongst the strongest that she has seen in the last five years, allows LOPD a strong basis on which to make our case for increased funding based on performance and needs.

Chairman Clear asked CFO Christina Keyes and Deputy Chief Cydni Sanchez briefed the Commission regarding the follow-up work since the Budget presentations. Deputy Chief Sanchez reported meetings internally within the department to prepare materials requested by House Finance Chairman Lundstrom. Deputy Chief Sanchez indicated the LOPD is preparing a package in preparation for the meeting with the two Representatives on Wednesday, February 10, 2021. CFO Christina Keyes reported the efforts to take advantage of the additional meetings and consideration for the LOPD before final decision are made and voted on before the end of the session in March. There are several exciting opportunities ahead for us and we're in a great position to move forward and pursue them.

VII. Report from LOPD Chief: Bennett Baur

Chief Bauer introduced Amanda Dick-Peddie, as the LOPD analyst from the LFC.

A. Update on Coronavirus Impact: Chief Bauer commented on how proud he is to be the Chief Public Defender and that LOPD is a wonderful and positively challenging organization to lead. He explained there is a sense of our obligation for our clients throughout the department, and the public defender spirit ran through LOPD. He told the Commission how COVID really kicked into high gear, and everyone had to change the way we did our work. Chief Bauer highlighted the work of the Human Resources Division, Matt Bevington and the IT Department, and our fiscal people. He gave high praise for all.

B. Legislative and Budget Update: Chief Bauer introduced Amanda Dick-Peddie, as the LOPD analyst from the LFC. Amanda Dick-Peddie informed us the LOPD is in an excellent position coming out of HAFC. Even though the LFC recommendation was flat, there was no decrease in funding presented. Dick-Peddie indicated the opportunity to sit down with legislators for follow-up meetings as directed by HAFC Chair Lundstrom may provide LOPD with additional funding. Even before this unique additional opportunity for follow-up meetings, Dick-Peddie indicated that the legislators really recognize what a great job the LOPD has done.

Chief Bauer introduced Kim Chavez Cook, LOPD's Appellate Defender, who has been doing legislative advocacy for the Department. Kim Chavez Cook explained the work that she and Chief Bauer work have done with the New Mexico Safe Coalition and the Sentencing Commission's Criminal Justice Reform Committee. We present to the Courts, Corrections and Justice Interim Committee and work with legislators to try to

steer them towards good bills. During the Legislative Session, LOPD has submitted over 50 written recommendations and analyses to committee analysts as well as committee members. LOPD tracks bills that we are either in support of, oppose, or just have technical input to provide. The committee work that we do is daily. We make public comment on bills, but we do a lot of work behind the scenes as well. We have two bills this session that we drafted and found sponsorship for that we're actively pushing and trying to get passed. Kim Chavez Cook informed the Commission about House Bill 114, which would make habitual offender enhancements discretionary and make them inapplicable to simple drug possession. Senate Bill 141 would adopt and codify a statewide Steps Program for technical violations so that people don't get incarcerated right away.

VIII. Public Comment: There was no Public Comment.

IX. Executive Session: Commissioner Michael Vigil moved for Executive Session, Second by Commissioner Melissa Sawyers. The motion passed unanimously. Commissioner Hugh Dangler moved to rise out of Executive Session, Second by Commissioner Michael Stout. The motion passed unanimously. Chairman Clear certified that only those matters described in agenda item 9.A.1. and pending litigation and pursuant to Section 10-15-1.H-7, N.M.S.A. were discussed in Executive Session.

X. Committee Reports

A. Litigation Committee: Chairman Michael Vigil reported to the Commission that three cases were settled. The Garrison case was settled. The Hare case, a racial discrimination case, was dismissed on summary judgment. And the Colon case involving a probationary employee resulted in a nuisance settlement.

B. Legislative Committee: Commissioner Michael Stout discussed the bills he would like to have Commission endorsement or support for. House Bill 140, which provides for the elimination of mandatory minimum sentences. The other is House Bill 226, which provides for court review of competent evidence at grand juries. Commissioner Michael Stout moved for the endorsement of the Commission of these bills. Second by Commissioner Michael Vigil. Motion passed unanimously.

C. Budget and Finance Committee: Chairman Michael Vigil the Budget Committee did not meet and there is no report.

D. Contract Counsel Committee: Chairman Michael Stout advised the Commission the Contract Counsel Committee did not have a meeting. There has been some CLE information going out to contractors.

Deputy Chief Randy Chavez discussed two topics: jury trials and contractor numbers. He told the Commission there were 25 contractors throughout the state scheduled for jury trials, some of the trials on one docket. Some of the scheduled jury trial involved murder charges and First-Degree felonies. Deputy Chief Chavez pointed out there are several jurisdictions still needing additional contractors to represent indigent clients. The biggest impediments are the rural geography and lack of attorneys living in and willing to do contact indigent defense work as well as the inadequate contract rates that we are able to pay given our budget. CFO Christina Keyes and Deputy Chief Cydni Sanchez discussed a plan to convince our legislators that they need to pay more money on our contracts so as to avoid losing more contactors.

XI. Upcoming Events: Chairman Clear announced the next meeting as a legislative review that will tentatively be held on Friday, March 26, 2021 at 11:00 AM.

XII. Adjourn: Motion to adjourn by Commissioner Michael Stout. Second by Commissioner Melissa Sawyers. Motion passed unanimously. Meeting adjourned.