

FY 2024

(July 1, 2023 - June 30, 2024)

Annual Report and Strategic Plan



NEW MEXICO
**LAW OFFICES OF THE
PUBLIC DEFENDER**

Website: www.lopdnm.us

Twitter: @NMDefenders

Facebook: NM Law Offices of the Public Defender

301 N. Guadalupe Street, Santa Fe, NM 87501

TABLE OF CONTENTS

EXECUTIVE SUMMARY _____	3
Background: The New Mexico Law Offices of the Public Defender _____	3
Public Defender Commission _____	3
Chief Public Defender _____	4
ADMINISTRATION _____	5
CLIENT ADVOCACY _____	6
Statewide Units _____	6
Public Defender District Offices _____	8
Map of Counties with and without LOPD offices _____	10
Contract Counsel Legal Services (CCLS Unit) _____	11
Map of Counties with and without LOPD offices _____	12
LOPD PROGRAMS _____	13
Agency Mission and Purpose _____	13
Stages of Client Representation (Program Activities) _____	13
Criminal Justice Reform and System Change _____	15
CRITICAL CHALLENGES AND EFFORTS TO ADDRESS THEM _____	17
Caseloads _____	17
"The New Mexico Project" _____	18
Ongoing Impact of COVID-19 on the Criminal Legal System and Clients _____	20
Anticipated Increase in Caseloads and Workloads _____	22
Public Defense Funding and Necessary Support Staffing Levels _____	23
Shortage of Experienced Contract Defenders _____	26
Innovative Recruitment and Retention Program _____	28
Results from Innovative Hiring _____	32
Statewide Training and Professional Development Program _____	33
Strategic Planning Process _____	34
Efforts to Secure Grants and Other Funding _____	35
Improving Client Services through Technological Enhancements _____	36
Improving Employee Services _____	37
COMMUNITY ENGAGEMENT _____	38
FY2024 GOALS AND OBJECTIVES _____	40
SUMMARY OF PERFORMANCE MEASURES _____	43

EXECUTIVE SUMMARY

Background: The New Mexico Law Offices of the Public Defender

The mandate of the New Mexico Law Offices of the Public Defender (LOPD) is to fulfill New Mexico's constitutional and statutory guarantees of providing legal services to indigent adults and juveniles charged with criminal or delinquent acts in New Mexico. The LOPD provides legal counsel in every state court: the New Mexico Supreme Court, the New Mexico Court of Appeals, 15 District Courts, the Bernalillo County Metropolitan Court, and 25 Magistrate Courts. The New Mexico Public Defender Act, Sections 31-15-1 through 31-15-12, NMSA 1978, requires the Department to provide indigent criminal defense representation that complies with constitutional standards of effective representation under the V and VI Amendments of the United States Constitution and Article II, Sections 14, 15 and 18 of the New Mexico State Constitution.

Public Defender Commission

In 2012, the citizens of New Mexico passed a constitutional amendment declaring that the New Mexico Public Defender Department "is established as an independent state agency" to be administered by a Chief Public Defender and overseen by a newly-created Public Defender Commission (Commission). The Commission is charged with the selection of the Chief Public Defender, setting fair and consistent standards for the operation of LOPD, and approval of the annual budget request. The Chief Public Defender, appointed to a four-year term, is responsible for managing all day-to-day operations of LOPD.

Public Defender Commission Members

Thomas Joseph Clear III -
Chairperson
Raymond Sanchez - Vice
Chairperson
Daniel Banks - Secretary
Hon. Richard Bosson, Retired
Jacqueline Flores
Gina Maestas
Traci Neff
Naomi Salazar
Michael Sanchez
Melissa Sawyers
Peter Schoenburg



The Hon. Richard Bosson, retired, bottom left, swears in Peter Schoenburg, bottom right, into his position during the August 2022 commission meeting. Chairman Clear, top right, and Chief Baur, top left, look on.

Chief Public Defender



Bennett J. Baur
Chief Public Defender

Chief Public Defender Bennett J. Baur began his career as a trial attorney in the Albuquerque office of LOPD in 1993. After time as an assistant district attorney and nine years in private practice, he returned to the LOPD as the First Judicial District Defender. He has also served as deputy chief and interim chief for the department. Baur is a past president of the New Mexico Criminal Defense Lawyers Association and has advocated on criminal legal issues in the New Mexico Legislature for over 20 years. He resides in Santa Fe with his wife. In April 2021, the New Mexico Public Defender Commission unanimously approved Chief Baur to a second, four-year term leading the Law Offices of the Public Defender.

Mission

**From courthouse to Roundhouse:
Leading the fight for justice in New Mexico.**

Vision

A New Mexico where justice is based on restoration, not retribution.

Values

**Compassion and Commitment to our Clients
Collaboration and Cooperation with the Community and our Coworkers
Courage to be a Catalyst for Change**

ADMINISTRATION

With offices located in Santa Fe and Albuquerque, administrative services encompasses a broad range of centralized agency management functions, including fiscal oversight and budget preparation, information technology services, personnel and human resources, physical office operations and leasehold management, recruitment, training and professional development program for employees, litigation support (expert) services, and indigency and eligibility standards compliance.



PDC Vice Chair Raymond Sanchez, left, visits with Human Resources Director Ronald Herrera.

The administration actively advocates on a broad range of governmental, public policy, and criminal legal issues affecting LOPD and its clients. In addition, the Chief Public Defender, deputy chiefs, statewide directors and district defenders communicate LOPD's interests to criminal legal system constituents, which include local and state governments, district attorneys, jails, prisons, courts and local district office communities to assure the delivery of quality legal services for LOPD's adult and juvenile clients.

LOPD's administration works directly with the legislature, the judiciary, and the executive branches of state government. They also prepare and submit budgets and answer questions through informal mechanisms as well as through formal legislative hearings and presentations. LOPD's administrators and leadership provide formal testimony to legislative committees and interim committees, bill analysis, and substantive written information on a full range of issues directly and indirectly affecting client representation in the trial and appellate courts. The chief, deputy chiefs, and district defenders serve on a number of task forces, advisory committees and councils which shape public policy, criminal legal initiatives and legislation in New Mexico and nationally. Finally, LOPD administrative staff and leadership participate in many court initiatives and programs developed and implemented by the New Mexico Supreme Court, Court of Appeals, District Courts, and the Metropolitan/Magistrate courts.



Public Defender commissioners and LOPD executive team members gather after a committee hearing at the Roundhouse in Santa Fe.

CLIENT ADVOCACY

Statewide Units

LOPD has several statewide units, which offer specialized, statewide legal services for public defender clients.

The statewide units are headed by:

- 1) Appellate Defender
- 2) Managing Attorney – Post-Conviction Unit
- 3) District Defender – Major Crimes Defender Unit
- 4) Managing Attorney – Mental Health Unit
- 5) Manager – Social Work Services

- **Appellate Division**

With a main office in Santa Fe and a satellite office in Albuquerque, LOPD's appellate division provides representation on direct appeal to indigent individuals before the New Mexico Supreme Court and the New Mexico Court of Appeals. Additionally, the appellate division provides appellate counsel when a request for interlocutory appeals of dispositive legal issues has been granted by an appellate court prior to final disposition or when appointed by the Supreme Court on certiorari review of an habeas corpus petition.

In FY2022, the appellate division was assigned to represent approximately 256 cases before the appellate courts, which was up from 217 cases in FY2021. Thirty-seven of those cases are assigned to contract defenders. The appellate division also provides daily assistance to all public defender attorneys and contract defenders statewide. During sessions of the New Mexico Legislature, appellate division attorneys prepare the majority of LOPD agency's analyses of proposed criminal legislation (Fiscal Impact Reports).

- **Habeas Corpus Unit**



Habeas team – back row: Amanda Stephenson, Sarah Gallegos, Matthew O'Gorman, front row: Tanya Gonzales.

The habeas corpus unit, based in Albuquerque, provides statewide representation to individuals in post-conviction matters that fall under two general categories of cases: conviction cases and confinement cases. Conviction cases may include claims related to actual innocence, ineffective assistance of counsel, and illegal sentences. Confinement cases may include claims related to disciplinary actions resulting in lost goodtime, medical complaints, failure to award lump sum credits and parole issues.

In FY2022, the habeas corpus unit, received 222 pre-appointment petitions for review and completed 214 pre-appointment reviews, and opened and assigned 66 cases with 63 of those cases assigned in-house. In FY2022, habeas numbers have decreased in workload—similar to pre-

covid years. Habeas unit has seen a decrease in COVID-19 petitions challenging conditions of confinement.

The appellate unit is managed by an appellate defender and the habeas unit is managed by a managing attorney. Both units report to Deputy Chief Philip Larragoite (pictured to the right). Philip Larragoite is a 1987 University of New Mexico School of Law graduate with a storied career in law, government relations and legislative advocacy. A sixth-generation New Mexican, Philip joined LOPD in 2014. He brings with him a deep commitment to the legislative process and to the reforms our state's communities need.



Deputy Chief Philip Larragoite

- **Major Crimes Defender Unit**

In late FY2018, LOPD initiated a statewide reorganization of the structure through which LOPD provides representation to clients charged with serious felonies by creating a statewide unit. In FY2019, the unit was designated the “Major Crimes Defender Unit” (MCDU) which defends first degree murder and serious violent cases statewide. The staff dedicated to the unit is housed in offices around the state, specifically: Albuquerque, Roswell, and Las Cruces.

With the abolition of the death penalty in the 2009 Legislative Session, the unit focuses on defending cases carrying terms of life imprisonment: both first degree murder cases and child abuse resulting-in-death cases. Its experience in homicide cases allows the unit to provide support and training statewide. The goal is to ensure that every rural client's representation is as experienced as that given to clients in more populous areas and the unit coordinates with managers in rural areas to provide support in offices that often do not have attorneys with the requisite experience to try complex cases.

- **Social Work Unit**

LOPD continues its long-term goal to reduce the number of persons cycling through the criminal legal system. Social Workers have long been a critical part of that mission by assessing the client needs and matching the client with the available community services. A social worker considers the client as a whole person, assessing their needs and their strengths and communicating their assessment findings to the client in order to build a partnership with the client and an alliance with the client's social support system.

The Social Work unit is a statewide unit with social workers and/or case managers housed in all of the district offices. Most LOPD clients struggle with challenges beyond the legal concerns for which they are represented. Often times these challenges precede



Social Work Unit

criminal legal system involvement. Social workers connect with defendants and provide assessment and treatment and/or service plan recommendations. Social workers and case managers help clients access housing, benefits, mental health and substance abuse treatment, and provide support as they negotiate these complex care systems. Social workers and case managers connect clients to resources and liaison with pre-trial, probation, and correctional discharge planners to assist LOPD clients in receiving the proper care. Additionally, social workers and case managers are in a unique position to gather mitigating information and prepare reports and presentations for plea negotiations and sentencing hearings.

In 2010, the Supreme Court exerted in *Padilla v. Kentucky* that public defenders need to consider collateral consequences of criminal legal involvement when providing representation. While deportation is the commonly considered collateral consequence; convictions and pleas also affect one's eligibility for social services including housing programs, treatment programs and employment programs.

The FY2024 budget request includes 10 additional FTE for the social work unit: 6 social workers and 4 case managers. Most of LOPD's licensed social workers are stationed in Albuquerque, but travel the state to work complex cases and help in overwhelmed and underserved rural areas. Many of the rural offices have just one case manager or social worker, making it difficult to provide needed services to work with clients to address underlying issues contributing to recidivism. With additional staff, the unit would be able to conduct the in-depth work from the very beginning of a case and provide support throughout the life of a case.

Public Defender District Offices

LOPD district offices deliver highly competent, quality legal services through the direct supervision and mentoring by experienced trial attorneys. LOPD district offices are managed by a district defender, a local managing attorney, and an office manager. This local office leadership reports to the Deputy Chief Public Defender of Operations, Jennifer Barela (pictured below).



Deputy Chief Public Defender
Jennifer Barela

Deputy Chief Barela has spent a majority of her legal career working in indigent defense and she earned her law degree from the University of New Mexico School of law in 2002. Jennifer has dedicated her legal career to criminal defense representing indigent clients, mostly serving as a Public Defender in Bernalillo County. She has vast experience in criminal defense in a wide variety of cases, representing clients in both Children's Court and Criminal Court. During her time at LOPD she has worked as a juvenile defender, felony criminal trial attorney, Managing Attorney, and District Defender for the Second Judicial District. She became the Deputy Chief of Operations for LOPD in January of 2022.

Public Defender Office Locations and Leadership

First & Eighth Judicial Districts - Santa Fe, Rio Arriba, Los Alamos, and Taos Counties

- District Defender – Stationed in Santa Fe County
 - Managing Attorney – First Judicial District
 - Managing Attorney – Eighth Judicial District Taos

Second Judicial District Office – Albuquerque (Bernalillo County)

- District Defender
 - Five Felony Division Managing Attorneys
 - Juvenile Division Managing Attorney
 - Metro Division Managing Attorney

Third Judicial District Office – Las Cruces (Dona Ana County)

- District Defender
 - Three Managing Attorneys
- Defender – Major Crimes Defender Unit

Fifth Judicial District Offices – Lea, Chaves, and Eddy Counties

- District Defender – Stationed in Eddy County
 - Managing Attorney – Eddy County
 - Managing Attorney – Chaves County
 - Managing Attorney – Lea County

Ninth Judicial District Office – Curry and Roosevelt Counties

- District Defender – Curry County
 - Managing Attorney – Curry and Roosevelt

Eleventh Judicial District Office – San Juan and McKinley Counties

- District Defender – Stationed in San Juan County
 - Managing Attorney – San Juan County
 - Managing Attorney – McKinley County

Twelfth Judicial District Office – Otero and Lincoln Counties

- District Defender
 - Managing Attorney – Otero County
 - Supervising Attorney – Lincoln County



Dona Ana County office team in Las Cruces



Curry County office with Chief Baur in Clovis

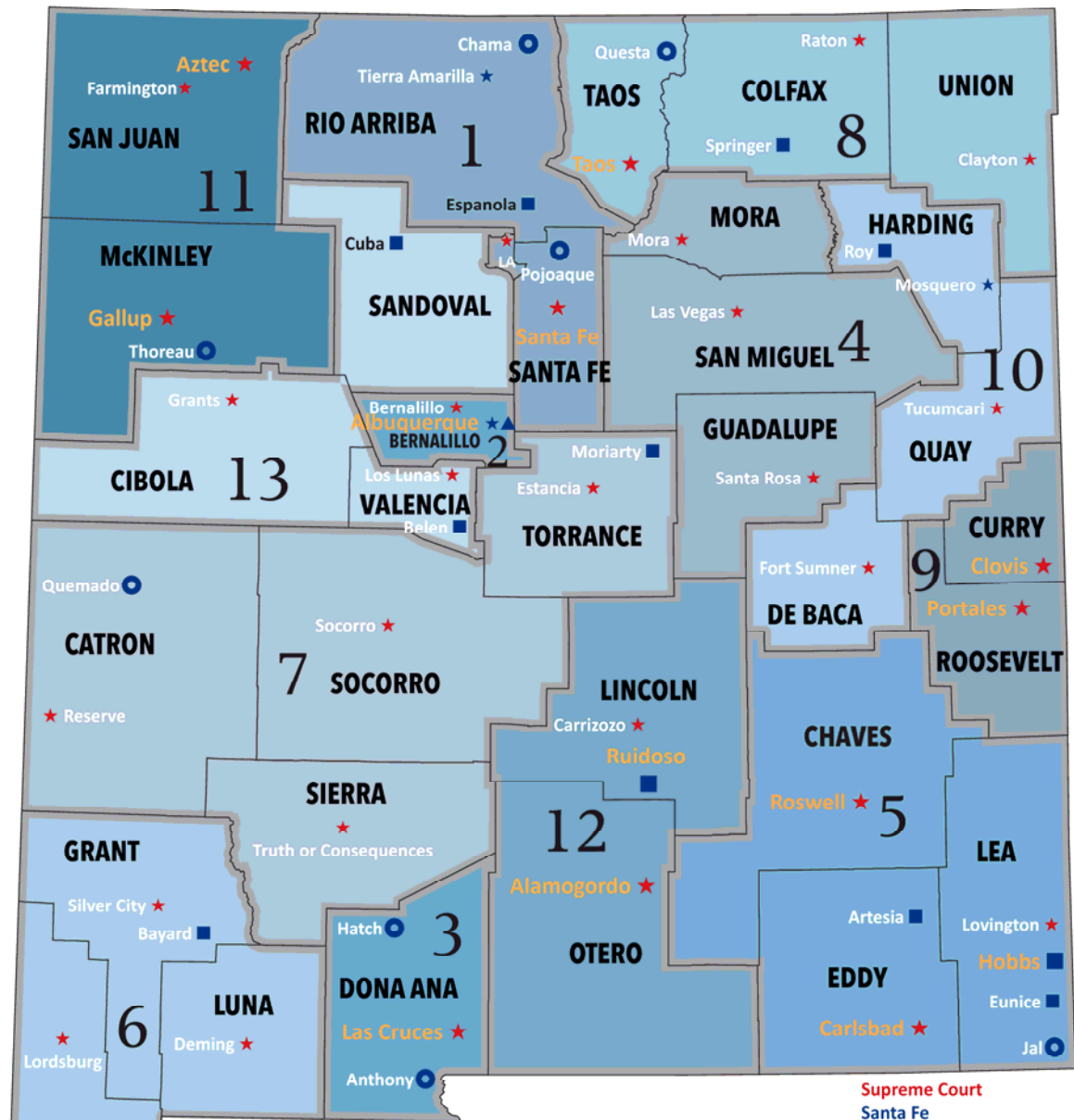


Otero County office in Alamogordo

Map of New Mexico Courts and Public Defender Offices



LAW OFFICES OF THE PUBLIC DEFENDER and NEW MEXICO COURTS



1st Judicial District Court
Santa Fe, Rio Arriba & Los Alamos

2nd Judicial District Court
Bernalillo

3rd Judicial District Court
Doña Ana

4th Judicial District Court
San Miguel, Mora & Guadalupe

5th Judicial District Court
Chaves, Eddy & Lea

6th Judicial District Court
Grant, Hidalgo & Luna

7th Judicial District Court
Torrance, Socorro, Catron & Sierra

8th Judicial District Court
Taos, Colfax & Union

9th Judicial District Court
Curry & Roosevelt

10th Judicial District Court
Harding, De Baca & Quay

11th Judicial District Court
San Juan & McKinley

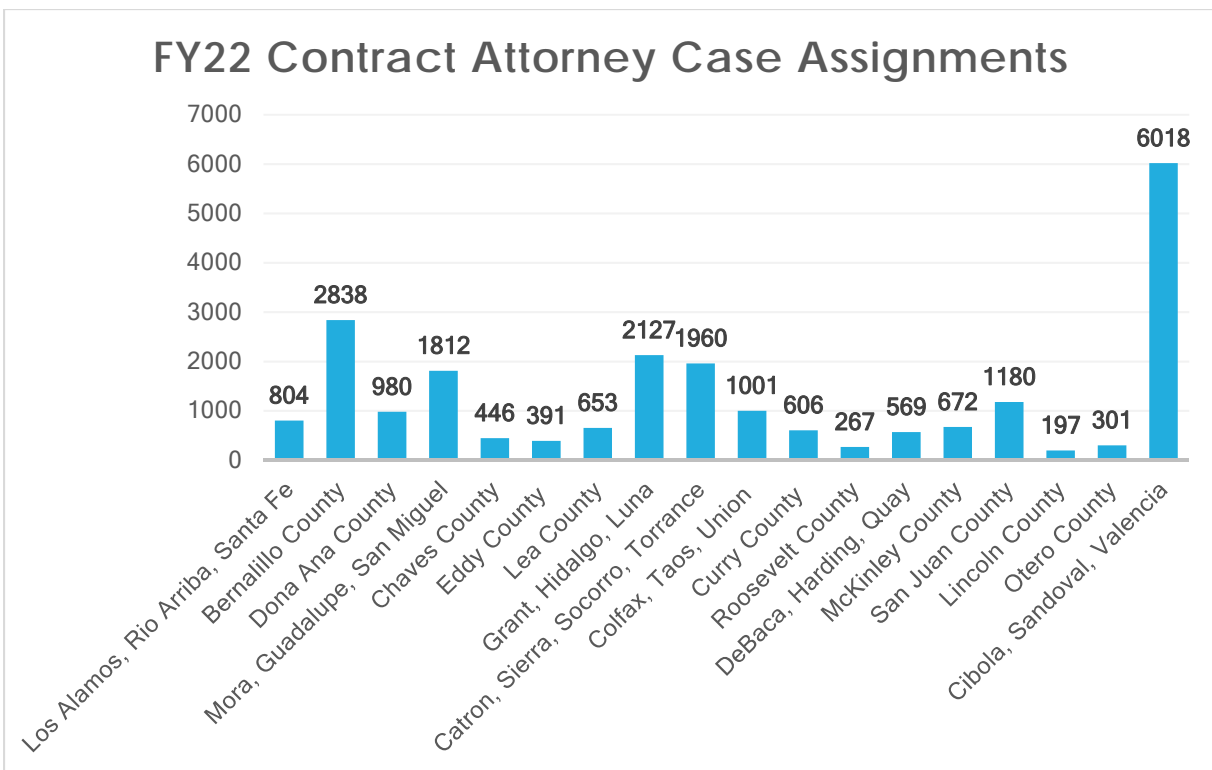
12th Judicial District Court
Otero & Lincoln

13th Judicial District Court
Cibola, Sandoval & Valencia

Bernalillo County Metropolitan Court
Albuquerque

- **Contract Counsel Legal Services (CCLS Unit)**

LOPD's statewide Contract Counsel Legal Services Unit organizes and oversees the contract defender representation system whereby LOPD contracts with attorneys to represent clients. In those counties where LOPD maintains district office operations, the unit's responsibility is assigning contract counsel in cases that the in-house public defender attorneys cannot represent the client due to legal conflicts of interests. In judicial districts and counties lacking district office operations, the unit must assign both primary and conflict of interest contract counsel. LOPD may monitor and manage approximately 110 private attorneys who contract with LOPD. In FY2022, contract attorneys were assigned 22,822 cases (approximately 34% of the cases assigned by LOPD), with most of those cases being in areas without LOPD offices.¹



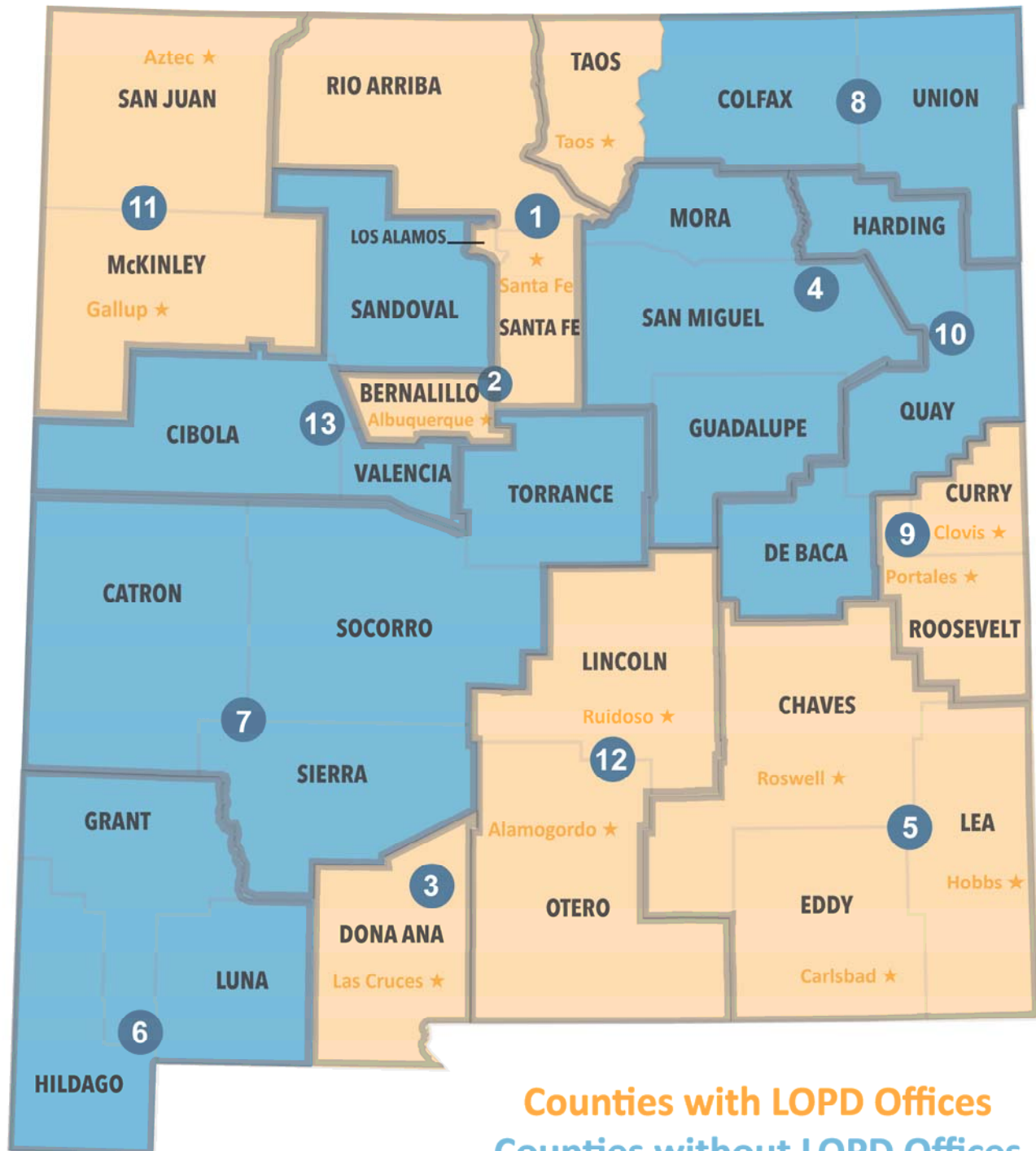
Deputy Chief Public Defender
Randy Chavez

The CCLS unit and the contract attorneys are managed by the Deputy Chief Public Defender of Contract Counsel Legal Services, Randy Chavez (pictured to the left). Randy Chavez is a native New Mexican raised in Cuba, New Mexico. He earned his law degree from the University of New Mexico School of Law in 1991, joining the Law Offices of the Public Defender shortly after. After serving as an Assistant District Attorney for a couple of years, he entered private practice and served as Contract Counsel for 19 years and then joined LOPD as the Director of CCLS in 2016. Chief Baur appointed him as Deputy Chief of CCLS in 2019.

Map of Counties with and without LOPD offices



LAW OFFICES OF THE PUBLIC DEFENDER and NEW MEXICO COURTS



LOPD PROGRAMS

Agency Mission

To provide holistic legal representation of the highest quality to persons charged with criminal offenses in New Mexico, to protect constitutional rights, to advocate zealously for our clients, and to reduce criminal recidivism and redirect clients from the criminal legal system throughout the State of New Mexico.

*“Injustice anywhere is a threat to justice everywhere.”
Dr. Martin Luther King, Jr.*

Program Name

The Law Offices of the Public Defender (Public Defender Department) State of New Mexico Public – Indigent Criminal Defense Legal Services.

Agency Purpose

LOPD’s purpose is to meet New Mexico’s federal and state constitutional mandates by providing effective legal and holistic representation and advocacy for indigent juveniles and adult criminal defendants, and serving the community as a justice partner to guarantee a fair and efficient legal system that reduces recidivism.

Stages of Client Representation (Program Activities)

Pre-Indictment Representation Tasks

Pre-Indictment representation tasks include, but are not limited to:

1. Counseling and advising clients on eligibility for pre-prosecution programs, drug court diversion programs, and Judicial Supervision Program Courts (veterans court, mental health courts), and the Early Plea Programs;
2. Conducting pre-indictment investigations, interviews and plea negotiations;
3. Handling pre-indictment interaction with juvenile probation and parole officers; and
4. Advising individuals “under investigation” for criminal offenses.

This stage of representation also covers initial appearances, preliminary hearings and grand jury representation, including regular submission of evidence alert letters to grand jurors pursuant to New Mexico Court rules.

Pre-indictment tasks have expanded to include representation at pre-trial detention hearings, which has created an additional responsibility for the department. A new bond rule established after a constitutional amendment allows district attorneys to file a motion requesting that the court detain a defendant charged with a felony pending trial. The rule requires the court to set a hearing on the motion within five days of filing. Public defenders must represent defendants at the pre-trial detention hearings.

In FY2022, 1,187 motions for pretrial detention were filed in the Second Judicial District alone. This added workload requires public defender attorneys and staff to prepare and represent clients at the hearings. Approximate preparation time is based on the type of charge and criminal history; however, at a basic level, the hearing itself requires due process and depending on the evidence presented, may last several hours. This workload is additional work required to properly defend and advocate for clients under constitutional mandates.

Second Judicial District Attorney – Pretrial Detention Motions Filed and Percentage Granted by Fiscal Year			
Year/ Quarter	Motions Filed	Motions Granted	Percentage Granted
FY18	1261	535	42.4%
FY19	1140	494	43.3%
FY20	1288	652	50.6%
FY21	1289	638	49.5%
FY22	1187	623	52.5%

Case Preparation

Case preparation and Courtroom Advocacy Tasks Include:

Obtaining and evaluating discovery	Directing and managing case investigations
Interviewing and counseling clients	Interviewing witnesses
Brainstorming and collaborating with colleagues on case defenses	Preparation and presentation of necessary motion hearings/trials
Pretrial litigation of substantive legal issues	Preparing trial materials
Researching scientific evidence	Conducting legal research
Requesting appropriate expert analysis and testimony	Engaging in plea negotiations where appropriate
Sentencing mitigation and presentation	Preparation of appellate docketing statements or post-trial motions

Courtroom/Trial Work and Sentencing Advocacy



Santa Fe Supervising Attorney Jennifer Burrill represents a client in district court.

LOPD's courtroom and trial work provides high quality representation to clients statewide, despite overwhelming caseloads and workloads. Trial attorneys advocate in evidentiary and various other hearings, and trials. LOPD attorneys skillfully work their cases and work closely with clients to determine if there are any challenges that contributed to contact with the criminal legal system. Those attorneys refer clients to LOPD's social services unit for assessment. Cases are resolved in the best interests of the clients, which often includes trials.

Post-Trial Appeals

LOPD's post-trial work includes appeals and special writs to the New Mexico Court of Appeals and appeals and special and habeas corpus writs to the New Mexico Supreme Court.

Post-Conviction Representation

Post-conviction representation includes: adult and juvenile probation violation hearings, habeas corpus petitions and hearings, and probation and parole review hearings for convicted sex offenders. By statute, LOPD is charged with providing legal representation at review hearings at the initial 5 year review and at 2.5 year increments for every individual convicted of a sex offense in New Mexico and serving an indeterminate term of probation or parole.

Administrative and Legislative Functions

Administrative and legislative functions of LOPD include: eligibility determinations, human resources management, procurement, payroll, fiscal and budget management, training, policy development, legislative consultation and testimony, clerical and secretarial support, information system resources, contract management, strategic planning, maintenance of information and property, quality assurance, policy interaction with legal associations, courts, and the criminal legal community, and service to client advocacy groups and related initiatives by state, county, and municipal entities.

One administrative function includes the standards and policies for determining whether a defendant qualifies for public defender representation. LOPD is dedicated to finding creative solutions for the problem of overwhelming caseloads of its attorneys and focusing resources on the indigent. Since the LOPD mission is to serve the indigent, there is an evaluation of eligibility to ensure the best use of limited resources.

Advocating for Criminal Justice Reform and System Change

Representatives of the LOPD continue to be active participants across the state in many initiatives designed to improve the criminal legal system and ensure efficiency for all criminal legal partners. These include the NM Sentencing Commission, Criminal Justice Coordinating Councils, the Bernalillo County Criminal Justice Review Commission, the Legislative Interim Subcommittee on Criminal Justice Reform, the Legislative Interim Committee on Corrections, Courts and Justice, the CYFD Juvenile Justice Stakeholders Committee, the NM Sentencing Commission Juvenile Justice Committee, the Anne E. Casey Foundation's Juvenile Detention Alternative Initiative, the NM Drug Court Advisory Committee, the NM Association of Drug Court Professionals, the City of Santa Fe Law Enforcement Assisted Diversion Program (LEAD), the Albuquerque Metro Crime Initiative (pictured on the following page), and mental health advisory and other taskforces at the local levels throughout the state.



LOPD leadership (pictured above from left to right) including Albuquerque Managing Attorney Christopher Knight, Communications Specialist Maggie Shepard, Chief Ben Baur, General Counsel Adrienne Turner, and Deputy Chief Cydni Sanchez join Albuquerque City leadership including Mayor Tim Keller and numerous legislators at a meeting of the Albuquerque Metro Crime Initiative.

In addition to participating in organizations, LOPD continues to advocate for reforms in the criminal legal system that would allow LOPD to work more efficiently and effectively and for the betterment of our clients and communities. This cannot be accomplished overnight and will not reduce the demands on the system for an indefinite time.

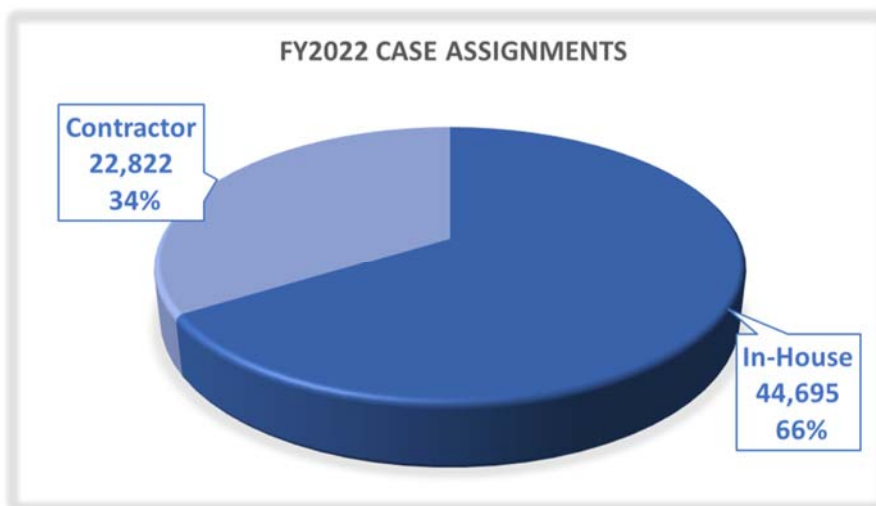
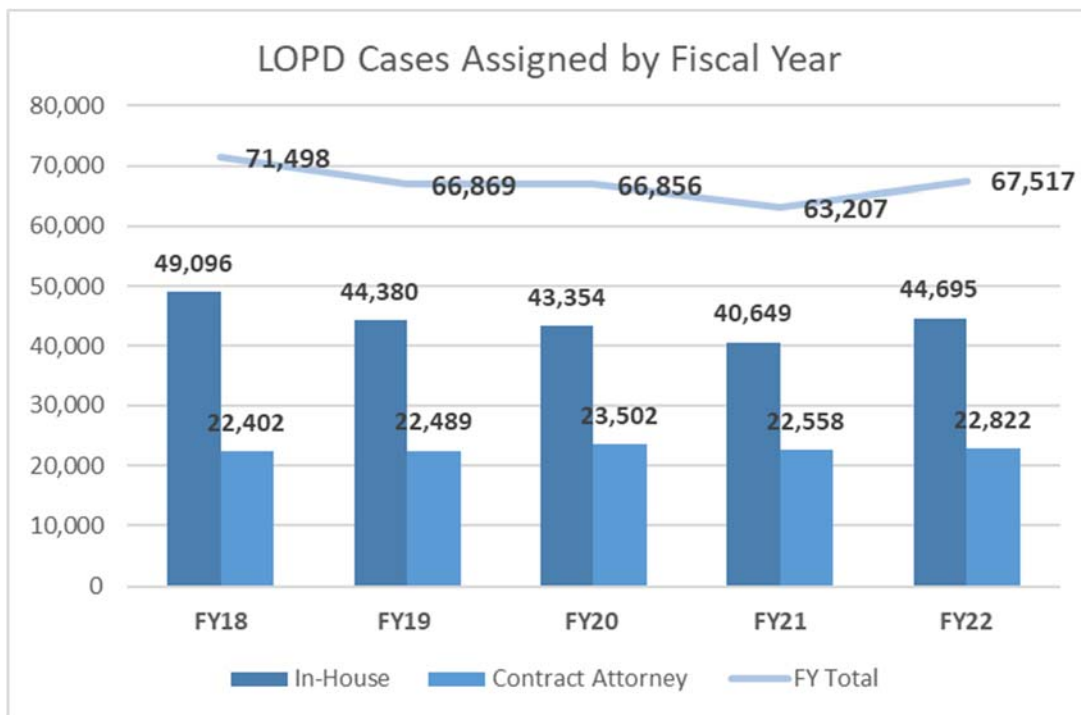


LOPD's Albuquerque office hosts a City of Albuquerque Community Safety staff who shared information on providing needed resources and services support without calling in police.

CRITICAL CHALLENGES AND EFFORTS TO ADDRESS THEM

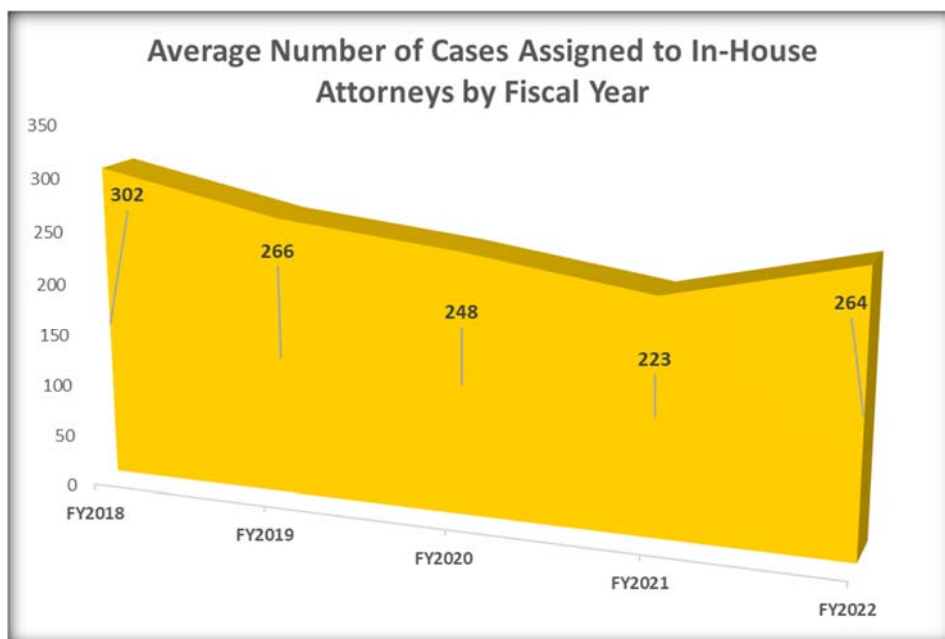
Caseloads

In FY2022, LOPD assigned 67,517 cases. Due to LOPD's efforts to increase retention and stability in staffing, combined with implementation of statewide data entry standards, and criminal justice reform, case assignments had declined slightly from FY2019 to FY2021, but then increased again in FY2022 as seen on the graph below.



Regardless of the previous decline, the resulting caseload for both LOPD attorneys and contract defenders is high enough to cause serious concern whether most defendants are receiving constitutionally adequate representation. Litigation seeking to flesh-out constitutional mandates regarding caseloads has been pursued in the state Supreme Court and District Courts.

The systemic problems with contract defense in the hybrid model are exacerbated by the excessive workloads carried by many in-house attorneys (and, contract defenders may suffer from excessive caseloads as well). In FY2022, LOPD in-house attorneys were assigned a total of 264 cases (136 felony, 5 juvenile, and 123 misdemeanor) on average for each attorney. Contract attorneys were assigned an average of 206 cases each.



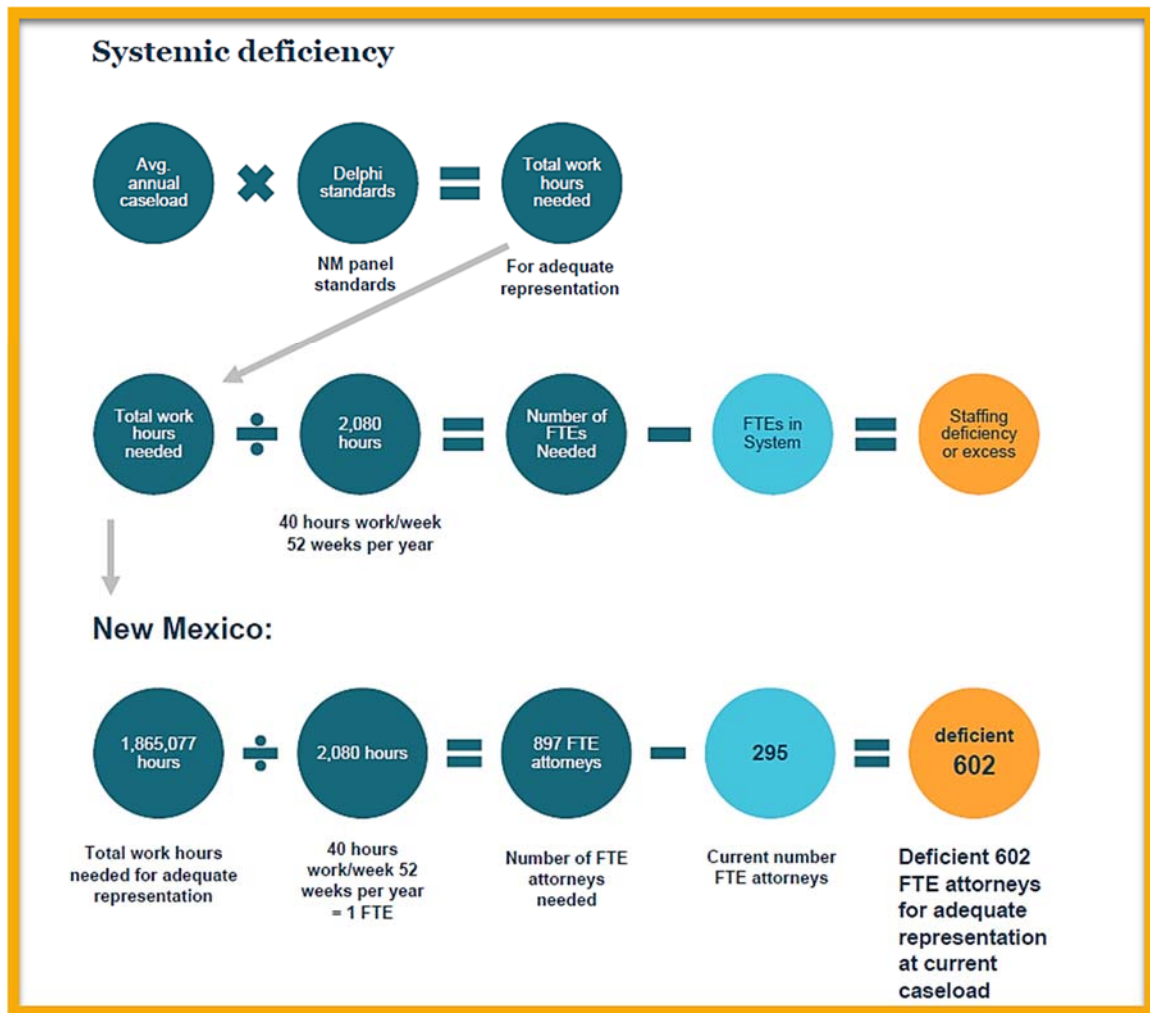
LOPD has few options to ease excessive caseloads because the District Attorneys have exclusive control over the cases that are filed. One option for LOPD is assigning in-house cases to contract defenders, however, the problem is simply transferred to the contractors who also have excessive caseloads. Time spent traveling to court and jail in rural New Mexico exacerbates workload issues for both public and contract defenders. Caseload measurement does not account for travel time or in-court waiting time but is critical to evaluating workloads.

There is a shared responsibility between LOPD and the Legislative and Executive Branches to provide constitutionally adequate representation statewide. Because of continuing concerns about caseloads, the Public Defender Commission has promulgated a rule entitled, “[Interim Case Refusal Protocol](#)” to address excessive attorney workloads. The objective of the rule is to establish guidelines for the Department to use when excessive attorney workloads would make it unethical for the affected attorneys to accept additional clients or would violate the New Mexico Rules of Professional Conduct or the federal and state constitutional rights of LOPD clients.

“The New Mexico Project” – a workload study conducted by the American Bar Association and Moss Adams

On January 11, 2022, the American Bar Association Standing Committee on Legal Aid and Indigent Defense released the long awaited report on LOPD workloads, partially funded by the LFC, which confirms what every LOPD attorney experiences on a daily basis. Findings of the report emphasize that LOPD is in need of an additional 602 full time attorneys. The 602 does not consider the additional workload required with new legislation, nor additional staffing and attorneys required when judgeships are added to any courthouses statewide.

The graphic on the following page is taken directly from the report and lays out the data used in the finding that LOPD has a deficiency of 602 attorneys.



The following list includes a link to the ABA's full report, the executive summary and also various news stories discussing the findings.

REPORT LINKS:

- ✓ [The New Mexico Project: An Analysis of the New Mexico Public Defense System and Attorney Workload Standards](#)
- ✓ [Executive Summary](#)

NEWS LINKS:

New Mexico Press:

- ✓ [New Mexico has 1/3rd the number of public defenders necessary to meet caseload, study finds](#)
- ✓ [Study: New Mexico public defenders office need 67% more lawyers to be 'effective'](#)
- ✓ [ABA SCLAD find deficiencies in its workload study of New Mexico public defense system](#)

National Press:

- ✓ [Public defender shortages reaching critical levels: report](#)
- ✓ [Public defender shortages in West are nationwide norm](#)
- ✓ [The need for public defenders is getting pretty dire](#)

The chart below calculates a contract attorney's hourly compensation using the ABA New Mexico workload study standards for the attorney hours that *should* be spent on a type of case to provide reasonable effective assistance of counsel along with the current LOPD contract base rate. The more severe the case, the more hours worked and the less the attorney would earn per hour.

NM Law Offices of the Public Defender - Contract Rates		
Case Type	Base Rate	Effective Hourly Rates based on NM Moss Adams Study Delphi Panel Results (2022)
1st Degree Felony Murder	\$5,400.00	\$13.81
1st Degree - Life Imprisonment	\$5,400.00	\$13.81
1st Degree Felony	\$750.00	\$14.80
2nd Degree Felony	\$700.00	\$13.81
3rd Degree Felony	\$645.00	\$12.73
4th Degree Felony	\$540.00	\$16.60
Juvenile	\$300.00	\$0.79 - \$18.94 *
Misdemeanor DWI/DV	\$300.00	\$13.82
Misdemeanor (other)	\$180.00	\$23.68
* The more severe the case, the more hours worked and less the attorney is paid per hour. Data from ABA/Moss Adams Report, page 3 (chart), juvenile data from page 26 of report.		

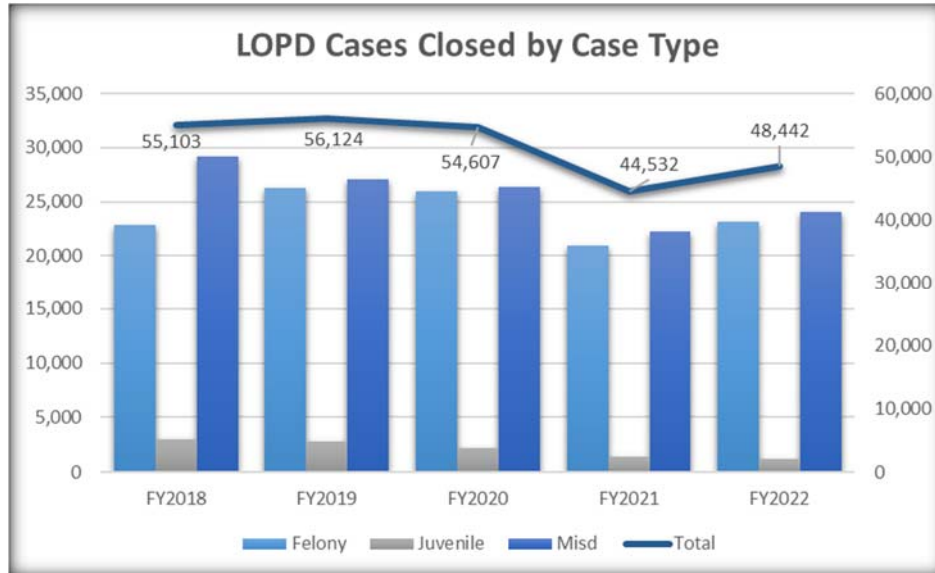
The Legislative Finance Committee's letter of support to the National Association for Public Defense for the NM Project was crucial in obtaining a substantial grant for the American Bar Association to work with LOPD on this New Mexico study. LOPD will use the report's findings to better understand the role of caseloads on departmental performance measures and the public defender's role in the criminal legal system.

Ongoing Impact of COVID-19 on the Criminal Legal System and Clients

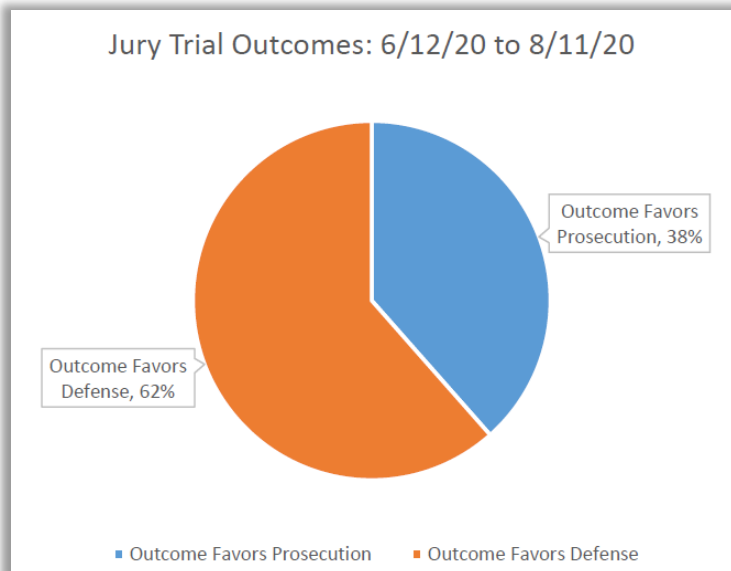
LOPD attorneys are faced with many struggles, the most paramount being obstacles to meeting with clients in person to develop rapport. There are many obstacles to virtual representation, and the most detrimental effect is on the attorney client relationship. There are ongoing difficulties for attorneys needing to consult with our clients during hearings. Attorneys are unable to discuss the process, explain what the judge or district attorney is saying (or asking for), or ask/answer our clients' questions.

The closures and slowdowns in the courts caused by the COVID-19 pandemic have delayed trials for clients, many of whom are being held in jail awaiting trial, limiting their ability to have a constitutionally guaranteed speedy trial. Dockets are full of trial settings and hearings to address the backlog of cases. Workload is also increasing because the number of cases being resolved was slowed to a snail's pace due to courts being closed to in person hearings and the New Mexico

Supreme Court stopping all jury trials for many months. This significantly reduced the number of cases that were resolved either by trial or by plea agreement. Resolutions are still limited by the parties' inability to meet with judges in person, and most significantly, in-house or contract attorneys limited ability to meet with clients in person to discuss their case or plea offers. As a result, active caseloads have been increasing since the start of the pandemic. In addition, the delay in case resolution is evident in the reduction in the total number of cases closed in FY2021 (during COVID) compared to previous years and FY2022, as displayed in the following chart.

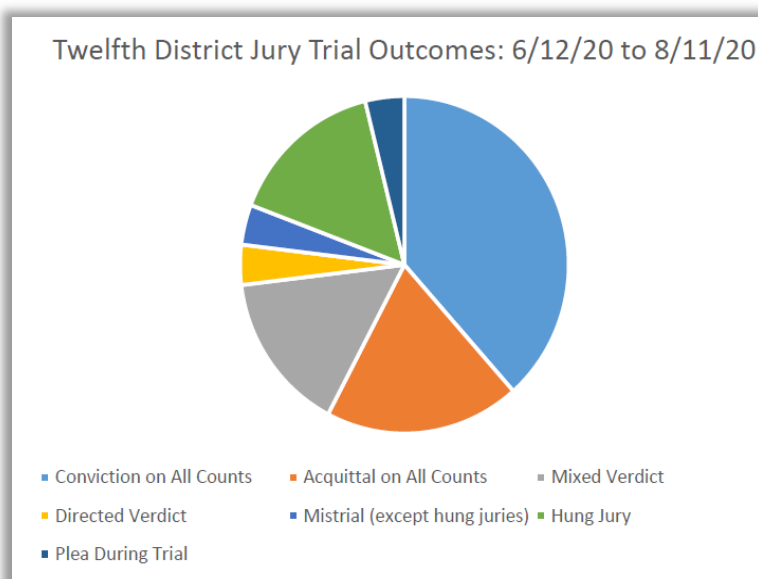


When the court resumed trials in the 12th judicial district after the shutdown of the courts due to COVID-19 in 2021, the 12th judicial district saw an onslaught of jury trials. In one month, when trials resumed in the 12th judicial district, LOPD's Alamogordo office faced 170 in-house felony jury trials on the docket for only one judicial division over a four-week period. These cases did not include the jury trials set in the other four district court divisions and four magistrate court divisions in Alamogordo, which is very likely to be hundreds more clients.



In the Twelfth Judicial District in particular, over a two-month period in FY2020 when courts restarted trials after the COVID-19 closures, attorneys obtained a favorable outcome for clients in 62% of cases that went to trial, illustrated in the graph to the left.

The data was compiled and analyzed by former 12th Judicial District Defender Matthew Chavez (now Second Judicial District Defender). Jury trials that did not result in acquittal on all counts or conviction on all counts were categorized as either favoring the prosecution or favoring defense by analyzing the specific outcomes of the counts in each case. These cases fall into five categories: trials that resulted in mixed verdicts, directed verdict, mistrials, hung juries, and those that pled during trial.



Preparation for such an extreme number of trials requires public defender trial attorneys to fully prepare each case for jury trial not knowing which defendants will ultimately have a jury impaneled. This is simply not possible, due to the limited office resources and the attorney and staff hours required to provide effective representation. This volume of trials, case assignments, and workload perpetuates the cycle of overloading and overstressing public defender attorneys and core staff, which directly contributes to burnout and high turnover. The burnout and turnover negatively impacts direct client representation, and negatively affects LOPD performance measures, and has long term effects on the criminal legal system by increasing the likelihood of appeals or habeas petitions. LOPD's budget request includes the need for an additional 30 attorneys, with 22 of those staffed in rural communities.

Each and every client is constitutionally entitled to effective assistance of counsel, which requires their attorney to review discovery, complete and review pretrial interviews, write motions and completely prepare every one of the cases for trial and also meet with each and every client to prepare for trial.

Anticipated Increase in Caseloads and Workloads

LOPD anticipates that the COVID-19 pandemic will affect client cases for multiple fiscal years. The drastic increase in New Mexico's unemployment rate and homelessness results in an increase in the number of defendants that will qualify for public defender representation, which in turn results in an increase in case assignments for attorneys. In light of the recent pandemic, there is an increased need for mental health services for New Mexicans and there is an expected increase in treatment for addiction(s) and/or other mental health diagnoses, which requires additional social work resources to connect clients with treatment while subsequently reducing the number of people reentering the criminal legal system. This is especially impactful for rural communities around the state.

In addition, the type of charges filed in a case directly affects the work required to prepare for trial, which significantly affects workload. LOPD is responsible for an increased number of

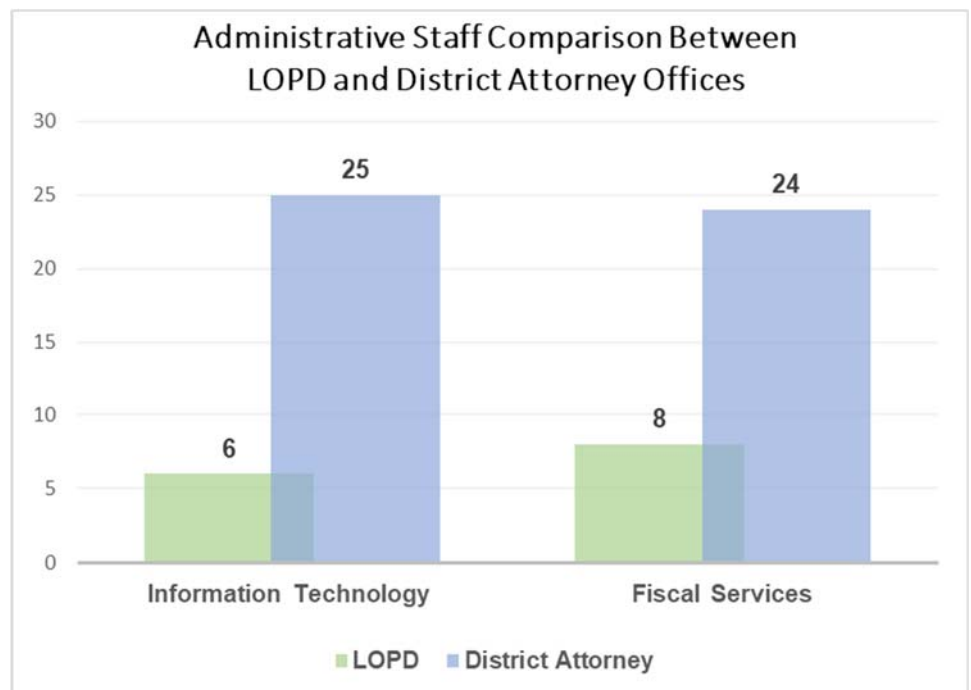
complex cases. Case complexity impacts the LOPD budget as the more complex and serious cases require additional resources beyond the attorney, specifically significant hours by investigators assisting the attorney with the case and social workers who work to address any underlying mental health and addiction issues, treatment placement and educational or employment obstacles. Any additional fiscal impact comes from the necessary use of expert witnesses on the complex cases. LOPD is also seeing an increase in requests for expert witnesses on complex cases. These cases require experts to investigate crime scenes and related evidence, review DNA or medical records, and assess competency of and possible rehabilitation of juveniles. Over the last two fiscal years, there has been an overall increase in murder assignments, including 145 murder case assignments to contract counsel in FY2021 and 148 in FY2022. LOPD has assigned more murder cases in FY2021 and FY2022 than any other fiscal years.

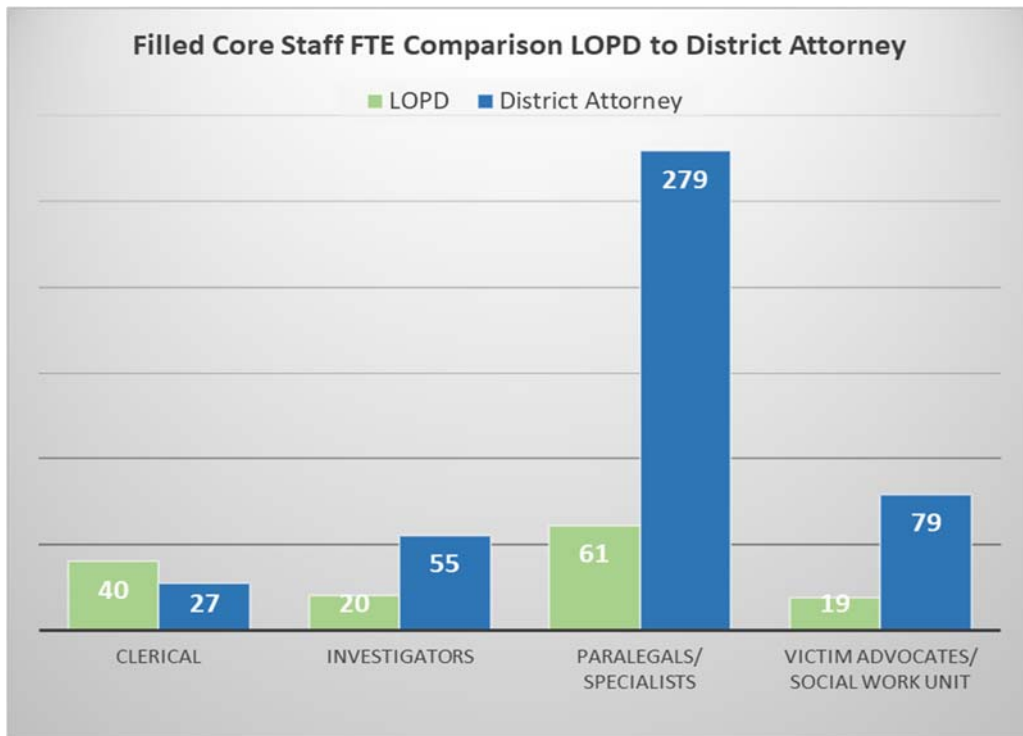
Public Defense Funding Compared to Other Criminal Legal Partners and Necessary Staffing Levels

LOPD appreciates the legislative commitment to incrementally align its budget with its mission so that the Department may fulfill its constitutional mandate to provide effective assistance of counsel to its clients. Though the roles of the prosecution and defense are admittedly different, the structure of the funding is different as well. District attorney offices are individually budgeted for higher staffing levels. The district attorney offices are not only served by their in-house administration and state-level administration for support, but they are also served by state, local and federal law enforcement. For example, state and local law enforcement conducts the initial investigation for the cases that the local district attorney may choose to charge. In addition, each district attorney's office has in-house chief financial officers, human resources staff, and information technology support, combined with similar statewide resources and support provided by the Administrative Office of the District Attorney (AODA).

The following charts and graphs demonstrate the stark difference in staffing between district attorney offices and AODA compared to LOPD.

LOPD has 43 administrative staff dedicated to serving the 443 FTE and 110 contractors, while also auditing and monitoring invoicing by contract defenders. Administrative staff includes fiscal, human resources, information technology, and statewide administrative support staff.





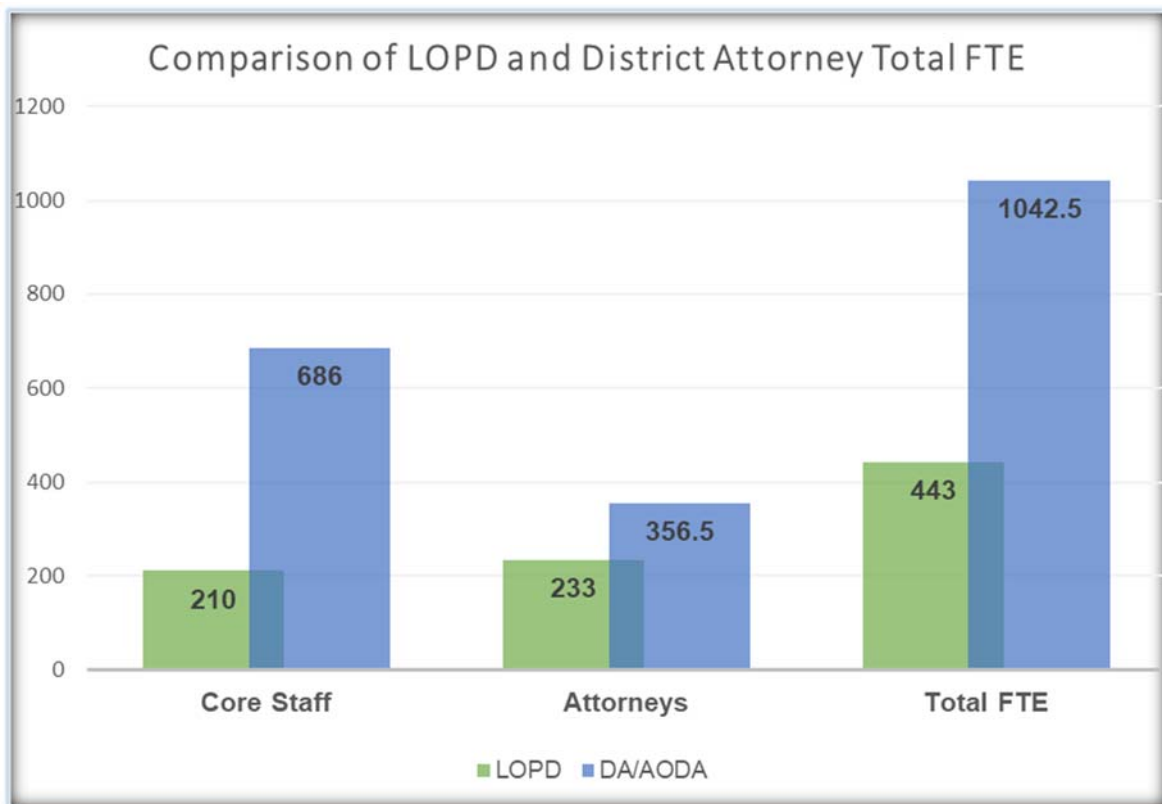
AODA and the district attorney's offices have a total of 686 core staff FTE and 356.5 attorney FTE. In addition, many district attorney offices have Deputy District Attorneys or other attorney supervisors that are not assigned cases, nor carry an active caseload as part of their duties. When compared to data compiled from the district attorney offices across the state, LOPD ratios are significantly lower than the DA's indicated statewide average staffing ratios, as illustrated in the following charts and graphs.

	LOPD	DA/AODA	% PD to DA
Core Staff	210	686	31%
Attorneys	233	356.5	65%
Total FTE	443	1042.5	42%

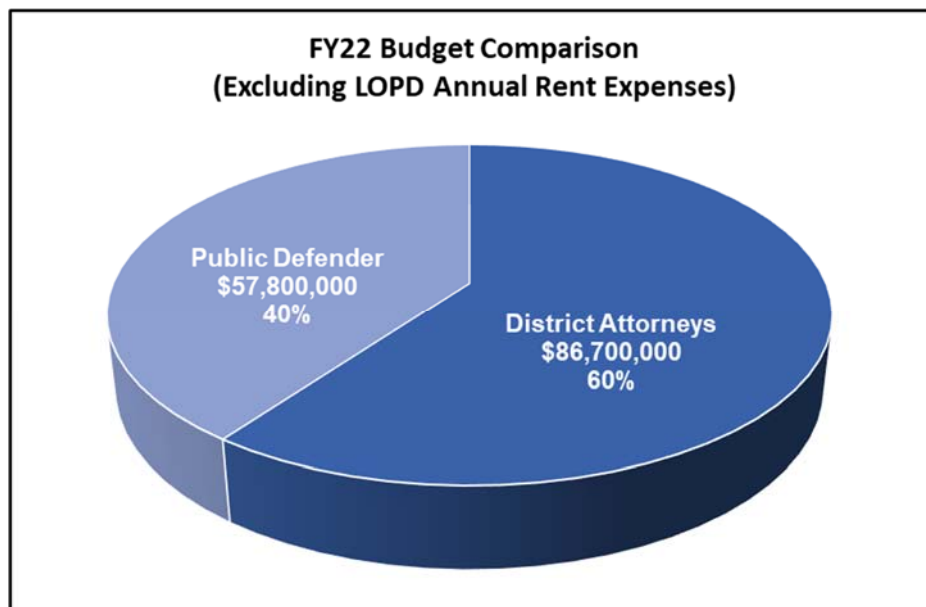
* The charts and graphs use LOPD filled FTE as of June 29, 2022 and DA/AODA filled and total FTE as of July 13, 2022.

**This total does not include the resources provided to DA offices by local and state law enforcement.

LOPD continues to advocate for the legislature to increase funding necessary for LOPD to "catch up" with others in the system, especially the prosecution. The greater the gap between the two, the more harm to constitutional representation.



The funding gap is further exacerbated because LOPD is burdened with the additional expense of paying leases for its facilities with General Fund revenues, while the district attorney offices are provided and paid for by the counties. The following graph demonstrates how this additional expense depletes the LOPD budget and demonstrates the difference in the remaining funds dedicated to client services.



Shortage of Experienced Contract Defenders

Due to funding levels forcing meager compensation paid to LOPD contract defenders, LOPD has struggled to find and retain an adequate number of contractors to provide a constitutionally appropriate level of defense. This is especially true in Curry, Eddy, Lea, Lincoln, Luna, McKinley, Roosevelt, and San Juan counties.

The constitutional requirements and performance standards for attorneys apply equally to both contractor defenders and in-house attorneys. Unfortunately, contractors are often less able to meet these requirements because of lack of resources. Contract defenders often receive less support due to having no support staff, including investigators, paralegals, social workers, and secretaries; whereas in-house attorneys have that support. Competition for attorneys with criminal experience impacts the defense of indigent clients in communities without local public defender offices.

The current base rate compensation for contract defenders is \$750 for first degree felonies (except capital crimes which are compensated at \$5,400), \$700 for second degree felonies, \$645 for third degree felonies, \$540 for fourth degree felonies, \$300 for juvenile cases, and \$300 for misdemeanor driving while intoxicated and domestic violence cases. Comparing these rates to the \$300 to \$400 per case paid in 1968 under the Indigent Defense Act, it becomes evident that inflation has devalued¹ the compensation rate dramatically over the past four decades.

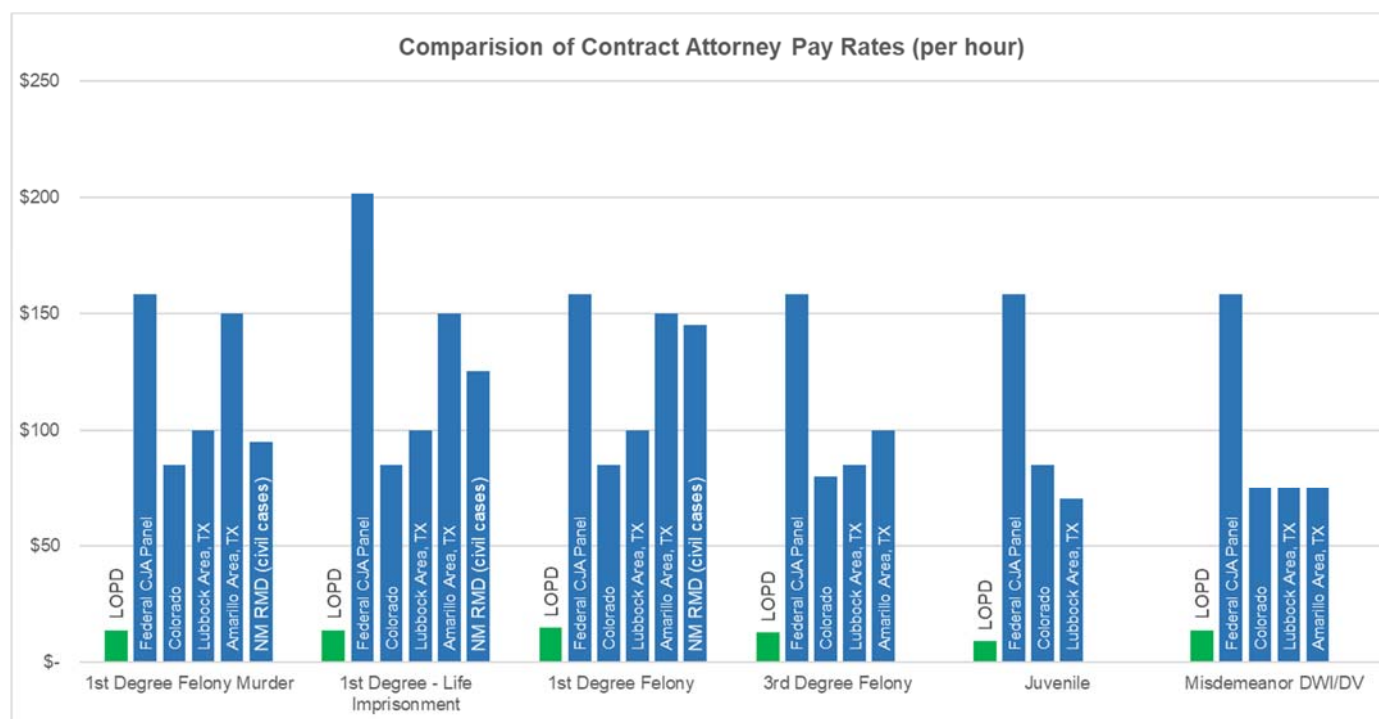
Base Fee Rate Per Case Payment to LOPD Contract Attorneys	
Case Type	Payment Per Case
First Degree Murder	\$5,400.00
First Degree Felony Life Imprisonment	\$5,400.00
1st Degree Felony	\$750.00
2nd Degree Felony	\$700.00
3rd Degree Felony	\$645.00
4th Degree Felony	\$540.00
Juvenile	\$300.00
Misdemeanor DWI/DV	\$300.00
Misdemeanor (other)	\$180.00

Other New Mexico State Contractor Comparisons	
Years of Experience	NM Risk Management Division (civil cases)
1-2 years	\$95/hour
2-5 years	\$125/hour
5-10 years	\$145/hour
10+	\$165/hour

The State of New Mexico pays contract lawyers in civil cases \$95 (for those with zero to two years of experience) to \$165 (for over ten years of experience) **per hour** to protect the State's money through the Risk Management Division's contracts. Those hourly rates are laid out in the chart to the left.

¹ An inflation calculator shows 1968 dollars to be worth eight and a half times 2022 dollars.

Those hourly rates provide compensation far higher than attorneys representing clients charged with first degree murder or cases that carry a sentence of life imprisonment. The civil contract lawyers defending the state are eligible to receive additional compensation for their paralegals in excess of the amount that even LOPDs most experienced contract lawyers receive for serious violent felony trials. By contrast, federal contract public defenders are compensated an hourly rate of \$158. The following chart compares the hourly rates paid by various public defender offices, the federal contract defenders (Federal CJA Panel), the New Mexico Risk Management Division and the effective hourly rates for LOPD contract attorneys based on current base rates paid per case and the Delphi panel results as reported in the NM workload study, as discussed on page 27.



Accordingly, the New Mexico Public Defender Commission has determined that the minimum possible amount to start compensating contract defenders should be \$85 per hour. This hourly rate would better provide for constitutionally effective indigent defense, ensure accountability through their billing invoices and achieve the goal of providing true legal services to each client as guaranteed under the New Mexico and United States Constitutions.

The contracts that went into effect starting November 2015 through November 2022 have provided a mechanism for additional compensation for complex case representation, although funding to fully implement this mechanism is currently lacking. This mechanism is an interim step to address the inadequate compensation of contract defenders until a system to compensate contract counsel on an hourly basis for the actual work performed can be funded.

LOPD's Contract Counsel Legal Services division will complete execution of its new contracts effective November 1, 2022, pursuant to a Request for Proposals (RFP) to solicit proposals from private attorneys interested in contracting with LOPD to serve indigent clients in jurisdictions where LOPD does not have a district office and on conflict cases in districts housing local LOPD offices. Overall, there is a decrease in attorneys submitting proposals—106 in 2018 compared to 81 for the last RFP. Although some of the contractors are retiring, others did not resubmit proposals, preferring instead to concentrate on their more lucrative private practices. Others obtained employment with State or Federal agencies; including, but not limited to, the District Attorneys' Offices, or relocated.

Despite increased advertising of contract work with LOPD through the RFP, it is becoming more difficult to recruit Contract Counsel, especially to the rural areas of New Mexico at the funded base rates. Once LOPD loses contractors in rural areas, it is becoming increasingly difficult to replace them. However, now that many of the hearings are conducted via Zoom or another virtual platform, there may be an increase in contractors willing to accept cases in rural areas. Naturally, this is dependent on judges continuing to use virtual platforms for hearings, and the courts resistance to going back to pre-COVID practices of requiring attorneys to travel long distances for brief, non-trial hearings.

Every fiscal year, the LOPD submits a Budget Request seeking additional funds to pay contract defenders an hourly rate in designated cases, compensate for complex case litigation and fund use of expert witnesses in complex cases. Paying hourly rates on serious cases and allowing for complex case compensation appears to be the only way to entice other attorneys to become involved and also for LOPD to ensure lawyers are compensated such to fulfill the State's constitutional requirements to provide zealous representation for indigent New Mexicans charged with crimes in rural New Mexico.

Innovative Recruitment and Retention Program

LOPD continues to fight to keep offices staffed to provide services to clients. Turnover is inevitable; however, it is exacerbated by the increased competition in the legal community for attorneys with criminal experience, COVID-19 pandemic, the Great Resignation and significant challenges to recruiting in-house and contract attorneys to serve rural communities.

While LOPD has struggled with recruiting experienced attorneys, it has not settled for simply posting positions and hoping candidates will find us. Instead, LOPD has been proactive in targeting different groups of prospective candidates and has dedicated resources to contacting those candidates and actively recruiting them to join our team. As a result, LOPD has been able to



reinvent our recruitment program over the last several years. However, retention of hires is critical and an ongoing struggle, especially for rural offices in Eddy, Lea, Curry, Chaves, Roosevelt, Lincoln, and Otero Counties. LOPD still lacks adequate funding to fill positions at a competitive level. To attempt to address recruitment and retention issues, LOPD completed a Classification and Compensation Study in FY2017 and implemented the recommendations in FY2019. LOPD has also included a pay package and an additional funding request to address pay disparity with district attorney offices.

In addition, LOPD created an innovative program that uses geographic pay differentials to reward the attorneys in our rural offices and acknowledge their willingness to serve New Mexico's rural communities. The differential is helpful with recruitment and retention as well. Following the LOPD example, rural district attorney's offices requested funding from the legislature to implement the same program.

LOPD has expanded its active recruitment of attorneys. This allows LOPD to proactively address the inevitable attrition of in-house attorneys and contract defenders in the "legal deserts" in New Mexico where there are few lawyers. Over the last two years, LOPD has pinpointed law schools with strong public interest programs and funding allocated for internships or externships. The goal is to develop pipelines by securing students dedicated to indigent defense for a summer.

In addition, LOPD has shifted to focus recruitment on hiring law school students immediately prior to or during the beginning of their final year of law school. This early recruitment allows LOPD to secure top notch candidates, while allowing the best candidates to receive an offer long before their colleagues, which provides stability during their last year of law school and while studying for the bar exam. These new hires are "limited practitioners," which means they have a legal education, but are not sworn into the bar and therefore unable to represent clients in court.

In FY2020, the program successfully expanded with twenty-five limited practitioners hired for seven LOPD offices. In FY2021, despite the challenges of COVID-19 constraining LOPD to only virtual recruitment, the program successfully recruited twenty-three limited practitioners hired for ten LOPD offices. In FY2022, virtual recruitment continued due to the COVID-19 pandemic and LOPD recruited twenty-one limited practitioners for eight LOPD offices.



FY2023 LP Jayme Leadmon shadows Mitha Nandagopalan (also originally hired through LP program) while she handles a Metro Court docket.



LOPD brings the limited practitioners onboard for training starting immediately after the bar exam. This time provides the department and the new hire between eight and ten weeks of training so that as soon as the limited practitioners are sworn into the bar, they can be assigned cases and represent clients in court. Limited practitioners have access to resources such as: investigators, paralegals, secretaries, contract immigration counsel, and hundreds of other attorneys to serve as mentors, trainers, and sounding boards to brainstorm cases.



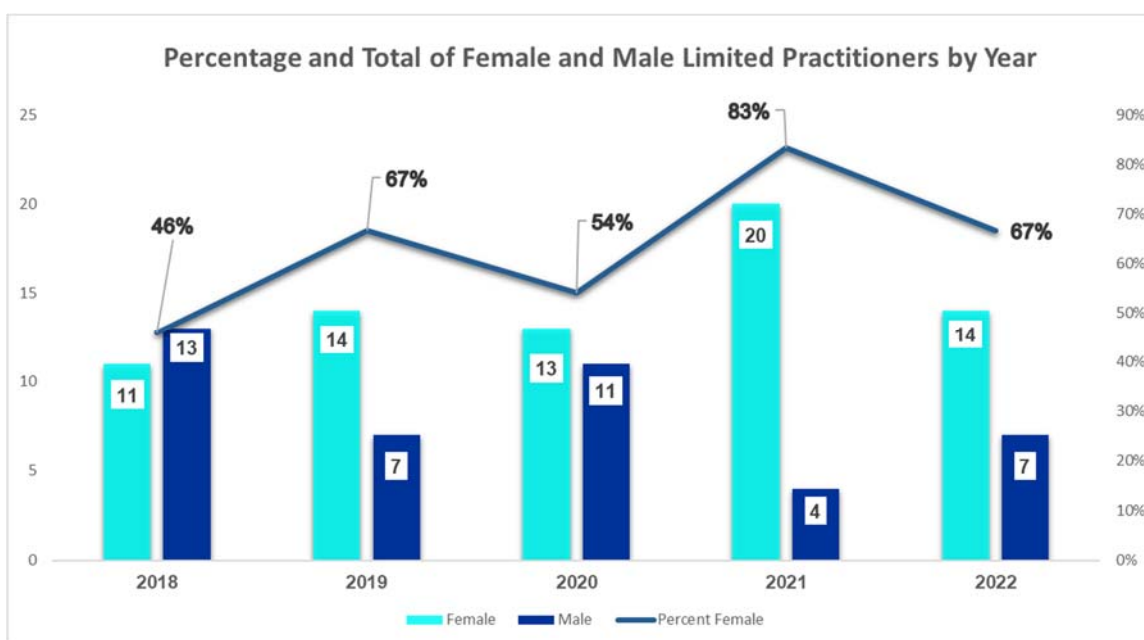
FY2023 class of limited practitioners working with the ABQ Metro Team take a break from new attorney training in August 2022 to take a group photo.



Deputy Chief Cydni Sanchez (pictured above) interviews limited practitioner candidates during the last in person equal Justice Works Conference and Career Fair in 2019.

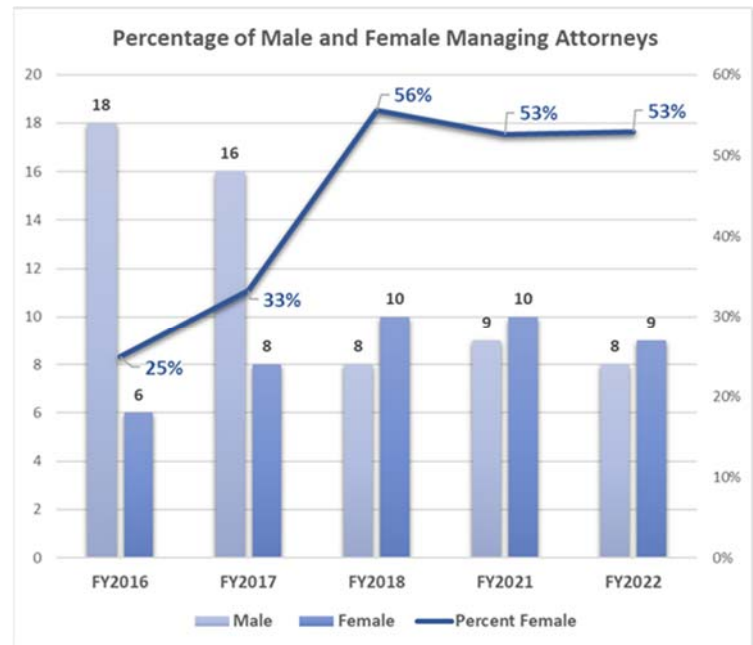
Training and Recruitment Director, Elizabeth Holmes (pictured to the left) recruits law students at the 2022 UNM School of Law Public Interest Career Fair.

The total number and percentage of female and male limited practitioners from the last four years is displayed on the following chart.



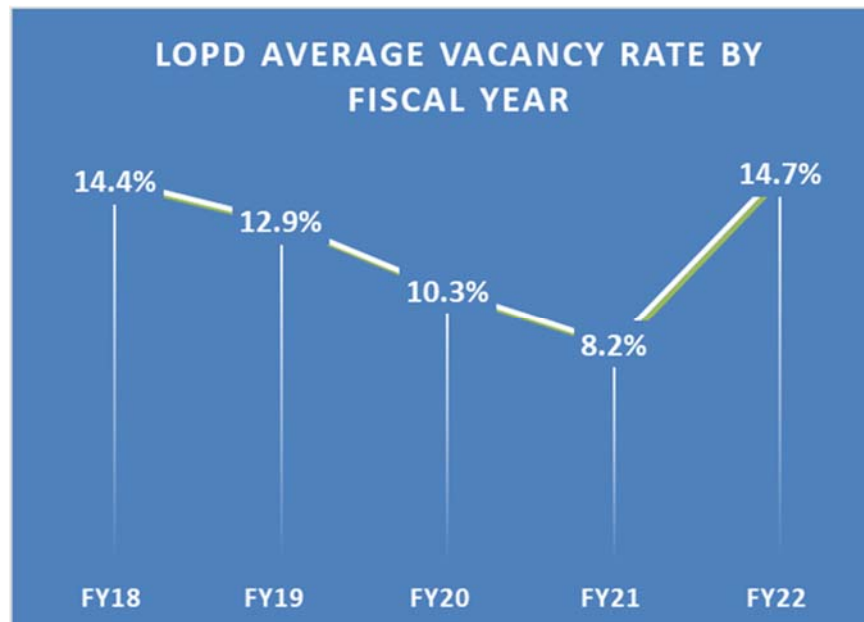
Results from Innovative Hiring Program Diversity and Inclusion

More women hold leadership roles at LOPD now than any time in the last six years. Additionally, the number of female managing attorneys has more than doubled since 2015 and for the last three years has stayed steadily above 50% of positions held by women. In addition to gender equity, the department has made steady improvement in racial diversity of core staff and attorneys.



Innovative Hiring Program Results in Reduced Vacancy Rate

Due to proactive recruitment, such as the limited practitioner program and innovative placement of positions, LOPD has consistently reduced the vacancy rate since FY2017. LOPD has evaluated the hiring process to eliminate delay, proactively plan for anticipated retirements or resignations, and diligently hire new employees. As a result, in FY2021 the lowest vacancy rate was 6.15%, compared to previous years when the lowest vacancy rate was 8.6% (in FY2020). The average vacancy rate in FY2020 was reduced to 10.3%. In FY2021, the average vacancy rate was reduced further to 8.2%. However, in FY2022 LOPD was not spared from the “Great Resignation,” with a total of 122 employees, including 65 attorneys and 57 core staff departing in FY2022. Regardless, LOPD was able to stay on top of hiring and the average vacancy rate for FY2022 was 14.7%, which is still well below the FY2022 statewide classified service average of 22.8% and in line with prior year LOPD average vacancy rates, as demonstrated in the chart below.



As mentioned previously, the efforts to reduce vacancy rate and proactively plan for attorney losses is evident in the increase in average attorney FTE from 162.5 in FY2018 to 182.0 in FY2021 and down to 169 in FY2022. When the average attorney FTE increases, it positively affects the number of cases assigned and assists LOPD in successfully meeting the established performance measure related to case assignments. The increased stability statewide has positively affected caseloads by reducing the number of reassigned cases and in turn reducing the average number of cases assigned to attorneys. It is important to emphasize that, although LOPD efforts are reduce the numbers, caseload numbers remain too high to provide effective assistance of counsel in all cases.

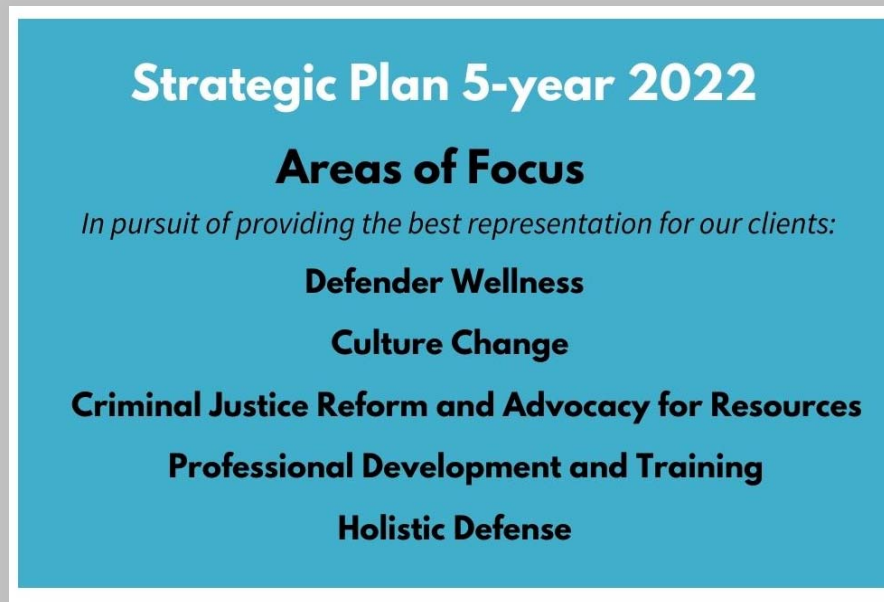
Statewide Training and Professional Development Program

LOPD's training and professional development program is designed to improve the quality of client representation while also meeting the evolving needs of employees. The program is developed and maintained by the Director of Training and Recruitment and a part-time core staff employee. In FY2022, the department continued to provide virtual trainings to attorneys, core staff, and investigators in response to the ongoing COVID-19 pandemic. While employees longed for in-person trainings, the department remained committed to ensuring training opportunities so attorneys maintained their licensure requirements. This was accomplished by providing monthly on-line trainings, the opportunity to attend the National Association of Public Defense (NAPD) virtual conference in March 2022, and a virtual LOPD Conference in June 2022. Training topics included polygraphs, bodily injury case reviews, forensic use of DNA, double jeopardy issues, conquering imposter syndrome and firearms and the law. LOPD plans to return to an in-person conference in FY2023 for attorneys, while continuing to use virtual trainings for their cost effectiveness and access to experts in diverse fields.

LOPD continued to invest in its employees by providing a variety of trainings. All employees were invited to attend the NAPD virtual Conference in March 2022. In FY2023, LOPD will focus on leadership and supervision training as a means to improve morale and retention in the wake of the "Great Resignation".

LOPD has experienced a significant number of employees departing and difficulty in recruiting employees as a result of the Great Resignation since the end of FY2021. During FY2021, 41 attorneys departed LOPD; however, in F2022, LOPD has seen 65 attorneys depart – three of which were retirements. The same trend is seen with core staff departures, with 30 leaving in FY2021, and nearly twice as many – 57 – leaving in FY2022. Of those 57 core staff departures, 8 were retirements with 2 being early retirements.

Strategic Planning Process



In FY2021, LOPD launched a strategic planning process for the department. This process enables LOPD to re-center on its mission, refine its vision of success, and focus time and resources on the projects and initiatives with the greatest potential for transforming LOPD in order to support the LOPD mission and allocate resources. In this regard, the strategic plan will provide a means to ensure that all parts of the organization are working collaboratively together in alignment to realize a vision that is fulfilling to staff, compelling to clients, and relevant to the many stakeholders across the entire criminal legal system. Leaders from the Maryland Office of the Public Defender (OPD) provided assistance and served as facilitators through the process. These facilitators have helped several other public defender departments through the strategic planning process.

The first step of the planning process included gathering feedback from all employees through an anonymous survey in order for employees to feel comfortable in being open with feedback. Over 40% of employees responded (165 responses) to the survey. The OPD facilitators reviewed the feedback that was collected and sorted them into general themes. Then, a virtual retreat was held in April 2021, when all LOPD employees, Public Defender Commission members, and community partners were invited to participate. The OPD facilitators helped the participants and the department with a vision session and hone in on areas of focus to help LOPD strategically plan to meet our vision and updated mission. During the session, there were discussions on how to improve client services and support employees by evaluating our mission, vision and culture. After those themes were developed, LOPD employees were selected to serve on five different writing teams. The writing teams developed plans, and LOPD leadership, employees, and the Public Defender Commission will work to implement its goals and measure success.

Efforts to Secure Grants and Other Funding

LOPD works to use funding effectively and also seeks out sources, other than the legislature, for additional funding. For example, LOPD has been working with Bernalillo County for many years to provide staffing at needed hearings for probation violations and weekend arraignments. LOPD and Bernalillo County entered into a Memorandum of Understanding in which Bernalillo County provides LOPD funding to provide staff support and attorney representation for clients requiring representation.



Chief Financial Officer
Christina Keyes

In addition, Christina Keyes, LOPD Chief Financial Officer (pictured on the left), has been researching and seeking out grant funding for LOPD. In FY2020, a grant was secured for FEMA funding through the Department of Homeland Security that reimburses LOPD \$18,000 for COVID related expenses. Ms. Keyes also worked to secure a sizable grant award for over \$200,000 from the Federal Coronavirus Emergency Supplemental Funding grant for use in FY2022. The one-time grant was used to purchase PPE and equipment such as laptops, cellular phones with hot spots and other tools to supplement connectivity for remote work by employees in rural communities.

First Judicial District Defender, Julie Ball, and Santa Fe Supervising Attorney, Jennifer Burrill secured a \$120,000 grant from the New Mexico Sentencing Commission in FY2023. They worked with their local district attorney to submit a joint application to fund recruitment and retention of public defender and district attorneys in their district. The goal is to incentivize experienced attorneys to stay in their positions with a retention bonus with the amount of the bonus being based on their years of experience. Retaining experienced attorneys helps provide needed stability for clients, to offices, and ongoing training of newer attorneys.



This image above was included in grant presentation by Ms. Ball and Ms. Burrill.

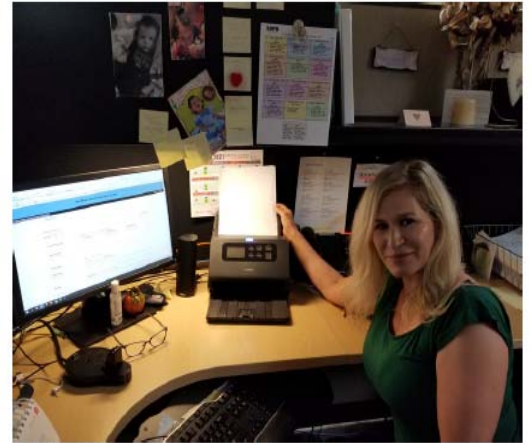
Improving Client Services through Technological Enhancements

Electronic Archiving – LOPD requested and was appropriated specialized funding over three fiscal years, which was used to build a state-of-the-art document management system and became operational in June 2021. LOPD used funding to purchase scanners for offices statewide. The FY22 funding was used to scan 1,500 archive boxes with client files into the document management system. In FY23, LOPD anticipates 2,800 boxes to be scanned. The entire transition to digital archiving will likely take years and eliminate the stacks of boxes in all offices. This project will also help core staff reduce time spent on searching for physical files and free up needed space.

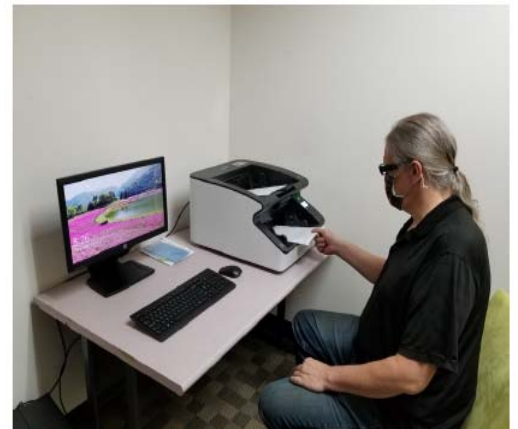
Cellebrite – These special devices which include two laptops and a remote device (mobile unit) will allow LOPD to handle cell phone extractions in-house instead of paying a contract expert. This will increase the quality of evidence presented to defend clients. LOPD dedicated the funds to make the purchase and will save expending some funds on experts; however, this means the actual work is shifted in-house. Three employees were selected to complete the training and obtain certification. The team will develop guidelines on these extractions and work with attorneys and investigators statewide on defense strategies.

LOPD is one of the first (public defender departments) in the country to have this system.

Tracking officer misconduct – IT is working on a build out in defenderData to track information on officer misconduct. Attorneys have provided feedback on the data that should be tracked and reports that would be helpful. The goal is to provide attorneys the ability to search by officer name and find whether there has been misconduct, *Giglio* information, and any associated cases. This is an ongoing project as it requires core staff and attorneys to add information to the database to create comprehensive statewide reporting and data.



Maribel Ortega, senior secretary for the Felony Division in Albuquerque, works with her small scanner at her desk.



IT's Ron Day works a large archive scanner in the Albuquerque office.

Improving Employee Services

Geographic pay differential – Several years ago, LOPD created an innovative program that uses geographic pay differentials to reward the attorneys in our rural offices and acknowledge their willingness to serve New Mexico's rural communities. The differential is helpful with recruitment and retention as well. LOPD implemented the program by dedicating resources to make it successful. In 2018, LOPD reassessed the program and the Chief increased the variable recruitment and retention geographical differential for the Alamogordo, Carlsbad, Clovis, Portales, Hobbs, Roswell, and Ruidoso offices due to the continued recruitment and retention challenges. The increases varied from an additional 25 cents to an additional \$1.00 per hour for attorneys and social workers, depending on the location of the district office.

Addressing pay disparities – Over the last five years, LOPD has proactively analyzed pay disparities within the department by contracting with an expert to conduct a study on pay and also implementing in-band pay increases.

Implementation of a paid parental leave policy – Effective April 2020, LOPD provides 12 weeks of paid parental leave to eligible employees. The purpose of the leave is to ensure that eligible employees are provided with paid leave to care for and bond with a newborn, newly adopted child, or foster child with an anticipated placement of six months.

LOPD Awards – Presents an ongoing opportunity for LOPD leaders and colleagues to nominate colleague who deserves recognition and an award for their efforts serving clients and the department. Nominations are collected annually and the winners that are selected are announced during a ceremony (in-person pre-COVID and virtual post-COVID). The following is the list of award titles: Unsung Hero award, Rising Star award, Innovator, Dedicated Public Defender and the Leadership award.



Key pads were deactivated (pictured top right) and key card readers were installed (as shown on the top left).

Swipe cards are assigned to all LOPD employees.

Employee Swipe Card Security System

Each LOPD office has received a new, safer entry system that will replace keys and lockpads with a swipe card and/or a phone app. Employees will be able to open the door with a wave of their hand with a swipe card or if the phone app is active. Efforts to secure funding to support this important project was driven by LOPD's concern about people's safety.

The system will allow quick access and separation of access for arriving or departing employees without having to re-key or put in all new locks for an office. If an office must be locked down for safety, that can be done very quickly.

COMMUNITY ENGAGEMENT

We Are Part of Our Communities

LOPD continues to engage our communities through traditional media, social media, individual outreach, service and community-rooted office events.



The team in Hobbs has launched a community breakfast and hosted educational events on civil rights when encountering law enforcement and restorative justice practices, which is a community-rooted alternative to traditional jurisprudence.



Attorney Sarah Pepin interviews with a television station in the media engagement room in Albuquerque.



Additionally, staff and attorneys across the state continue to engage local youth. In Carlsbad, District Defender Nate Banks hosted a youth program at his office and court. In March, LOPD's appellate defender Caitlin Smith participated in the New Mexico Supreme Court's Rule of Law school day at which court was held in front of youth. Deputy Chief Randy Chavez presented to his hometown Cuba schools about life as an attorney.



In Albuquerque, attorneys will be staffing hours at the New Mexico Black Leadership Council's headquarters nestled in the International District neighborhood as part of project UpLift. Several LOPD employees attended the UpLift open house, making connections with neighbors, local activists, clients, media, and service providers.

New Mexico students will watch as LOPD appellate attorney Caitlin Smith argues this before the New Mexico Supreme Court for the Rule of Law event Friday at 1:30 p.m. MDT.

New Logo and Website

The Department undertook a new website design and logo refreshment. The new website is sleek and, importantly, accessible on cellphones.



The new logo is a flame over a column-like base



NEW MEXICO
LAW OFFICES OF THE
PUBLIC DEFENDER



The Department continues to use media outreach and social media to connect with clients and communities across the state and nation. Deputy Chief Jennifer Barela and her team handle numerous television and print media interviews.



FY2024 GOALS AND OBJECTIVES

- I. GOAL/OBJECTIVE: Strengthen statewide system of Public Defender Attorneys and Contract Defenders to improve rural representation to ensure effective indigent defense and focus on restoration, not retribution.
 - a. Action Step: Recruit and retain in-house attorneys, core staff, investigators, and social workers by expanding current innovative and proactive recruitment program targeting in-house employees statewide with a commitment to diversity and inclusion. Expanding current efforts to recruit attorneys and include prospective employees from core staff, investigators, and social workers and fill FTE allocated in FY2023 which will improve retention and decrease vacancy rate.
 - i. LOPD seeks to build a team of professionals who support the mission and vision of the organization with a commitment to leading the fight for justice in New Mexico by protecting the constitutional rights.
 - ii. LOPD will work to establish and secure funding to provide a rate of equitable and competitive pay, increased levels of accountability, training and performance for in-house attorneys, contract attorneys and core staff.
 - iii. LOPD is committed to recruiting a diverse and inclusive workforce by:
 1. Working to create pipelines with law schools with strong public interest or criminal defense programming, and
 2. Recruit diverse employees that reflect the populations LOPD represents; specifically, Spanish speaking and employees of Black and Native American backgrounds.
 - b. Action Step: Expand pool of contract defenders by addressing inadequate compensation for contract counsel. LOPD is advocating for increased funding for contractors including for complex case litigation.
 - i. Ensure indigent clients receive a constitutionally adequate public defense by advocating for funding to address the existing low base rate, as an hourly rate contract is more likely to garner interest from skilled criminal defense attorneys in the private sector.
 - ii. In FY2023, LOPD will continue to analyze data from the hourly rate pilot project to determine a path forward. LOPD will analyze the data from these cases to project future funding requirements to further expand the pilot program.
 - iii. LOPD will engage the Public Defender Commission and the criminal defense bar to advocate statewide for adequate funding and implementation of an hourly rate for contract counsel.
 - c. Action Step: Continue investing in employees and improving representation through the development of LOPD Training Program.
 - i. Improve management and operations to invest in employee development including diversity, professional development and self-care.

- ii. LOPD will implement programs/opportunities/trainings with a focus on diversity and inclusion with input from employees, as well as self-care and wellbeing.
- iii. LOPD will continue to invest in leadership and supervision training.
- iv. Training and Recruitment Director will coordinate with LOPD's District Defenders and regional managers to identify training topics.
- v. Training and Recruitment Director will facilitate training for new attorney hires recently sworn into the New Mexico Bar, which will also fulfill the new attorneys Bridge the Gap participation required by the NM State Bar. The trainings will occur weekly throughout the fall led by senior attorneys statewide and includes advocacy workshops. Each week the training will focus on a topic including on-line course work followed by facilitated discussions.
- vi. In FY2023, the Training and Recruitment Director will identify, organize, and promote quality trainings to ensure LOPD employees are offered opportunities to fulfill their professional licensure requirements and professional development through both virtual, in-person, and hybrid opportunities.

II. GOAL/OBJECTIVE: Reduce recidivism and support community needs by positively impacting public safety.

- a. Action Step: Dedicate resources to equip LOPD social work unit and other front-line staff with essential training to work with clients to address underlying issues impacting their interaction with the criminal legal system.
- b. Action Step: Educate legislators and criminal legal partners about the limited mental health and substances abuse treatment resources statewide.
- c. Action Step: Advocate for additional support and resources to allow clients to address underlying issues.
- d. Action Step: Continue leadership and active involvement in criminal legal reforms.
 - i. LOPD will continue to collaborate with District Attorneys and courts statewide to improve existing and create more diversion programs, keeping low risk offenders out of the criminal legal system and reducing jail and prison populations.
 - ii. LOPD continues to advocate for reforms in the criminal legal system which would allow LOPD to work more efficiently and effectively.
 - iii. Participate in community policy conversations about criminal legal reform and garner community participation.

III. GOAL/OBJECTIVE: Meeting staffing requirement reported by the ABA Workload Study by aligning Public Defender pay and staffing levels similar to those of the District Attorneys.

- a. Action Step: Obtain funding in FY2024 budget request to hire an additional sixty FTE, summarized as:

- i. Thirty core staff FTE dedicated to direct client services: six social workers, four case managers to assess client substance abuse and mental health needs and to engage clients towards recovery. Twenty core staff including seven investigators, seven paralegals/legal associates, and five senior secretaries to improve communication with clients and allow reallocation of work from attorneys to core staff.
 - ii. Thirty attorney FTE dedicated to direct client representation and services, including twenty-two attorney positions to be distributed statewide to address the most critical areas of need, including adequate coverage of southern and eastern New Mexico, and other rural communities.
- b. Action Step: LOPD will seek advocacy assistance from the New Mexico Public Defender Commission and the criminal defense bar to advocate support from the Legislature and Executive for adequate funding, including an additional sixty FTE (thirty core staff and thirty attorneys) and compensation for contractors for FY2024.

SUMMARY OF PERFORMANCE MEASURES

FY2024 Performance Measures

1. Number of alternative sentencing treatment placements in felony, misdemeanor, and juvenile cases.
2. Average cases assigned to attorneys yearly (*reported staff and contract attorney assignments in each county*).
3. Average time to case disposition (*reported for staff and contract attorneys in each county*) (measured in months at close of case).
4. Percent of felony cases resulting in a reduction of the original formally filed charges.
5. Percent of juvenile cases resulting in a reduction of the original formally filed charges.
6. Percent of misdemeanor cases resulting in a reduction of the original formally filed charges.
7. Percent of total cases taken by contract attorneys reported by county.