

FY 2023 (July 1, 2022 – June 30, 2023)

Annual Report and Strategic Plan



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

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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. Between FY2019 and FY2022, five new commissioners were appointed: Traci Neff, Melissa Sawyers, Retired Justice Richard Bosson, former Senate Majority Leader Michael Sanchez, and former Judge Jacqueline Flores.

Public Defender Commission Members

Thomas Joseph Clear III - Chairperson

Raymond Sanchez - Vice Chairperson

Daniel Banks - Secretary

Hon. Richard Bosson, Retired

Hugh Dangler

Jacqueline Flores

Traci Neff

Naomi Salazar

Michael Sanchez

Melissa Sawyers

Hon. Michael Vigil, Retired



The Hon. Richard Bosson, retired, left, and Michael Sanchez are sworn into their positions.

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 the public defender 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 justice 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.

“Chief Baur has been a very strong advocate for our indigent clients in his last five years leading this department. He has worked closely with the commission, the legislature and others in the criminal legal system to address the root causes of crime and to fight for the resources public defenders desperately need to address systemic injustices and provide effective representation across our great state.”

Public Defender Commission Chairman Thomas Clear III

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 plant 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 justice issues affecting LOPD and its clients. In addition, the Chief Public Defender, deputy chiefs, statewide unit coordinators 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.



LOPD commissioners and LOPD executive team members gather after a committee hearing 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 FY2021, the appellate division was assigned to represent approximately 217 cases before the appellate courts. 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**



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 FY2021, the habeas corpus unit, received 281 pre-appointment petitions for review and completed 295 pre-appointment reviews, and opened and assigned 87 cases with 85 of those cases assigned in-house. Due to COVID-19 and other factors, the habeas unit has seen an increase in workload, including 1) increase in petitions filed by inmates, 2) influx of cases from five to twenty, and five – life parole issues, and 3) increase in juvenile matters requiring

representation due to recent changes in case law specifically affecting clients sentenced as juveniles to life without parole. This results in more pre-appointment reviews being generated and increased workloads.

- **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 diverting people at sentencing from jail or prison into treatment and housing programs of various types.

The Social Work unit is a statewide unit with social workers and/or case managers housed in the vast majority of offices. Most LOPD clients struggle with challenges beyond the legal concerns for which they are represented. Often times these challenges precipitated criminal legal system involvement. Social workers are able to connect with defendants by influencing treatment and rehabilitation at the time when the client is most likely to accept help. 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 ensure LOPD clients receive 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.

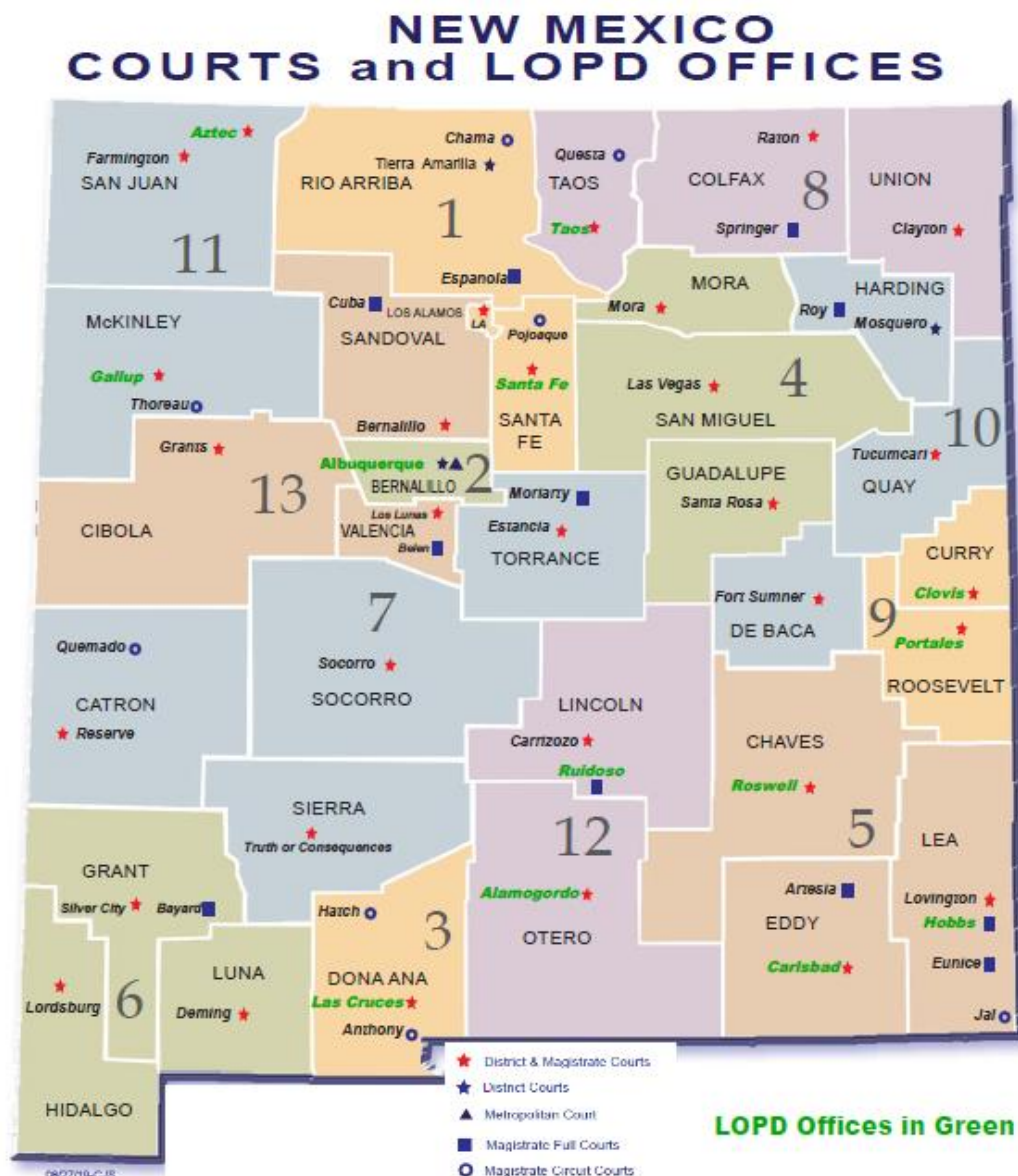
The FY2023 budget request includes additional social workers and all these positions would be stationed in Albuquerque, but travel the state to work complex cases and help in overwhelmed and underserved rural areas. The request also includes several peer case manager

positions with some stationed in Albuquerque and others in rural offices. 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 necessary from the very beginning of a case to connect with clients and provide support throughout the life of a case. In addition, the peer case managers will help connect and assist clients with their lived experience in navigating mental health/substance abuse services and/or the criminal legal system.

Public Defender District Offices

LOPD district offices provide legal counsel to the majority of LOPD's clients in a cost-effective and efficient manner. Our district office operations deliver highly competent, quality legal services through the direct supervision and mentoring by experienced trial attorneys.

Map of New Mexico Courts and Public Defender Offices



LOPD FY2023 STRATEGIC PLAN & ANNUAL REPORT

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
- Two Metro Division Managing Attorneys

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

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

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

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



Lea County office in Hobbs

Ninth Judicial District Office – Curry and Roosevelt Counties

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



Curry County office in Clovis

LOPD FY2023 STRATEGIC PLAN & ANNUAL REPORT

Eleventh Judicial District Office – San Juan & 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

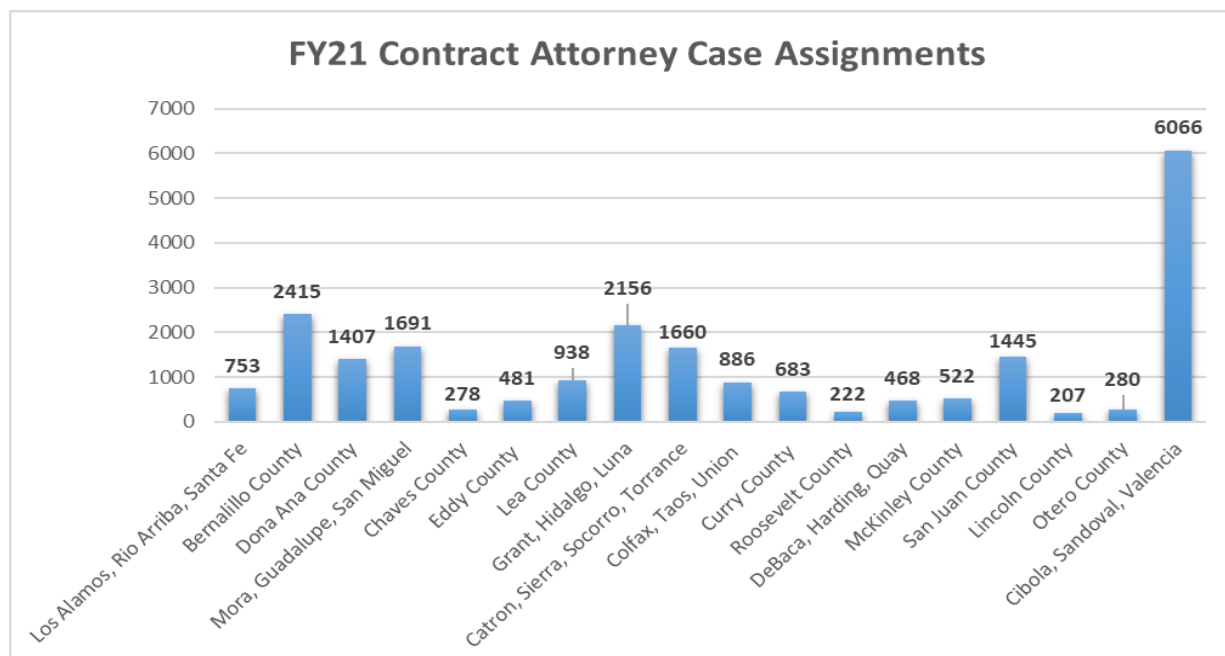
- District Defender – Stationed in Lincoln County
- Managing Attorney – Otero County



Otero County office in Alamogordo

Contract Counsel Legal Services (CCLS Unit)

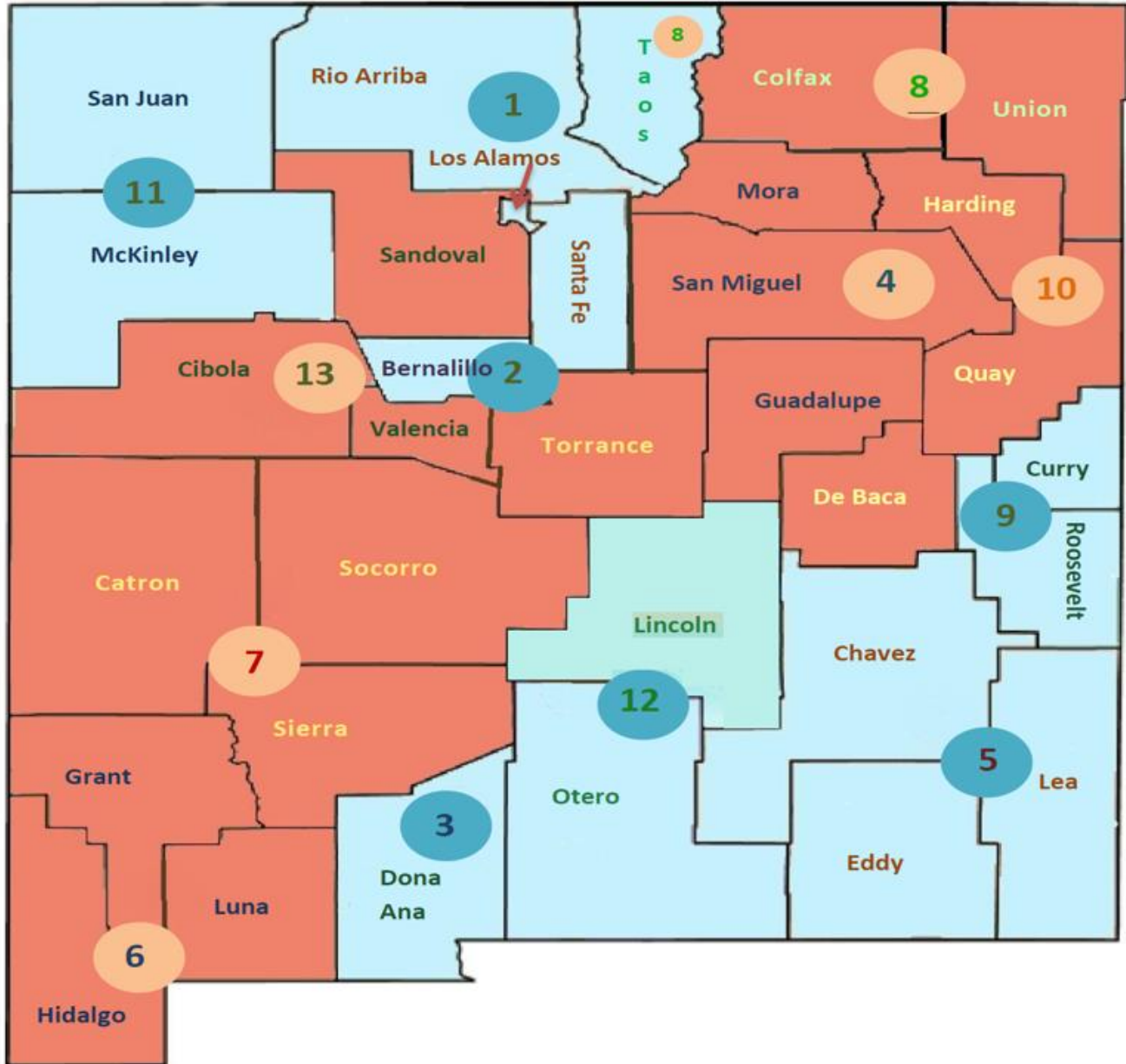
LOPD's statewide Contract Counsel Legal Services Unit organizes and oversees the contract defender representation system whereby LOPD contracts with attorneys to represent clients. In those counties where LOPD maintains district office operations, the unit's responsibility is assigning contract counsel in cases that the public defender attorney staff 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 130 private attorneys who contract with LOPD. In FY2021, contract attorneys were assigned 22,558 cases (approximately 36% of the cases assigned by LOPD), with most of those cases being in areas without LOPD offices.¹



Map of Counties with and without LOPD offices

New Mexico Counties without LOPD Offices are marked in Orange

New Mexico Counties with LOPD Offices are marked in Blue



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 FY2021, 1,289 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 added workload is not reflected in the agency's data on attorney caseloads but is additional work required to properly defend and advocate for clients under constitutional mandates.

Second Judicial District Attorney – Pretrial Detention Motions Filed			
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%

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	Conducting legal research
Pretrial litigation of substantive legal issues	Preparing trial materials
Researching scientific evidence	Preparation and presentation of necessary motion hearings/trials
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 1st 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. At the end of FY2018, LOPD significantly changed its *Eligibility Policy* to no longer offer reimbursement contracts to defendants who do not qualify for a public defender. Qualification for a public defender requires that the prospective client's income not exceed 200% of the federal poverty guidelines. Effective April 2018, a defendant who does not qualify as indigent will not be represented and instead is urged to retain a private attorney.

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, the Bernalillo County Criminal Justice Review Commission, Criminal Justice Coordinating Councils, 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 below), 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 the opening 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.

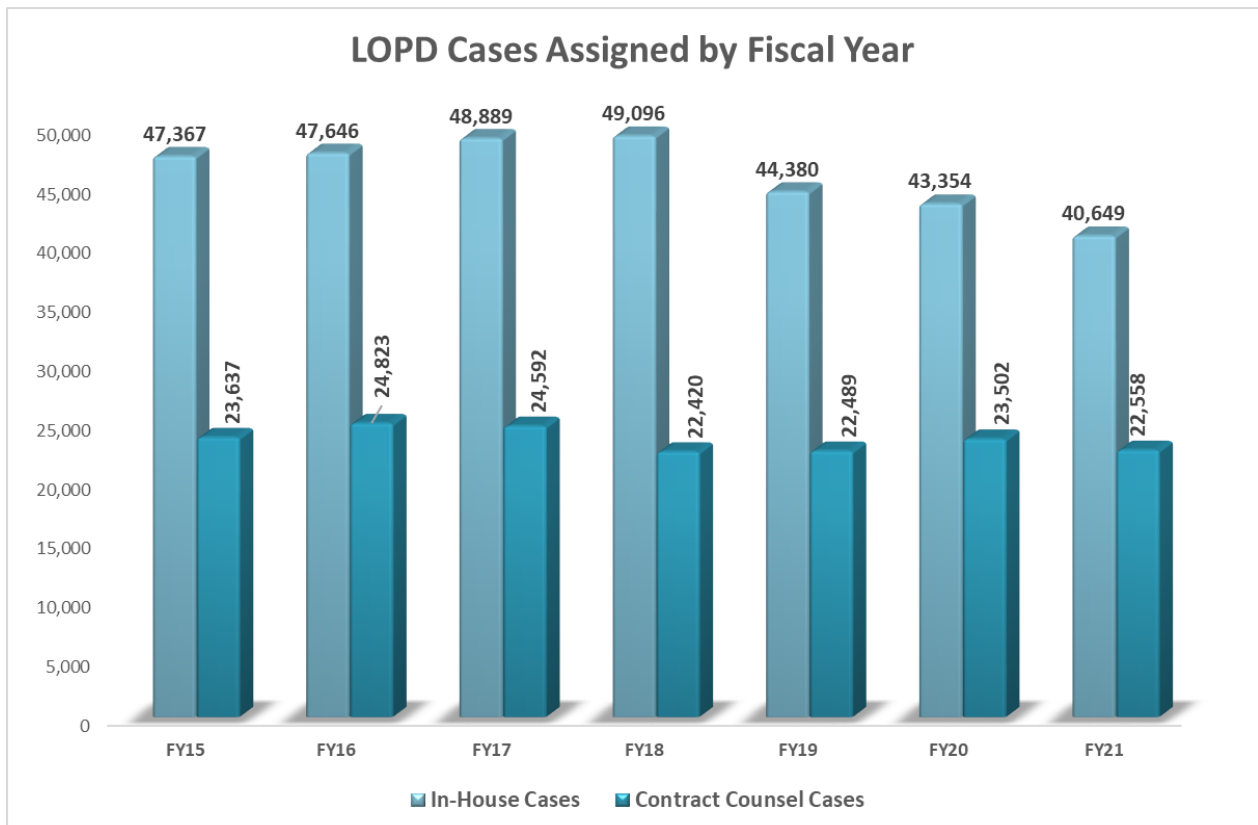
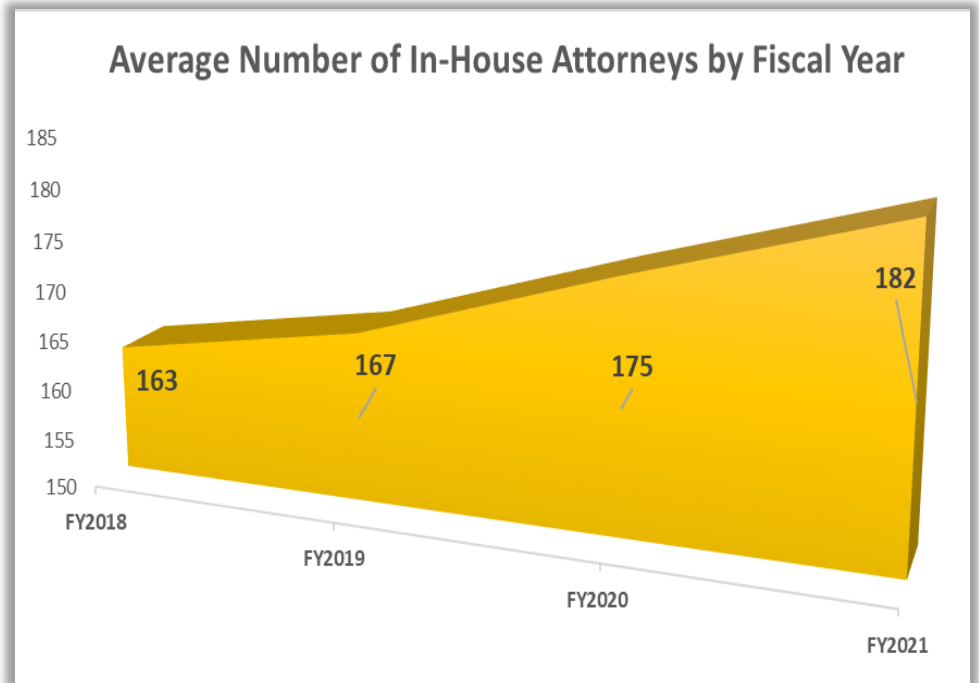


LOPD's Albuquerque office hosts a consortium of court and community providers for homelessness services.

CRITICAL CHALLENGES AND EFFORTS TO ADDRESS THEM

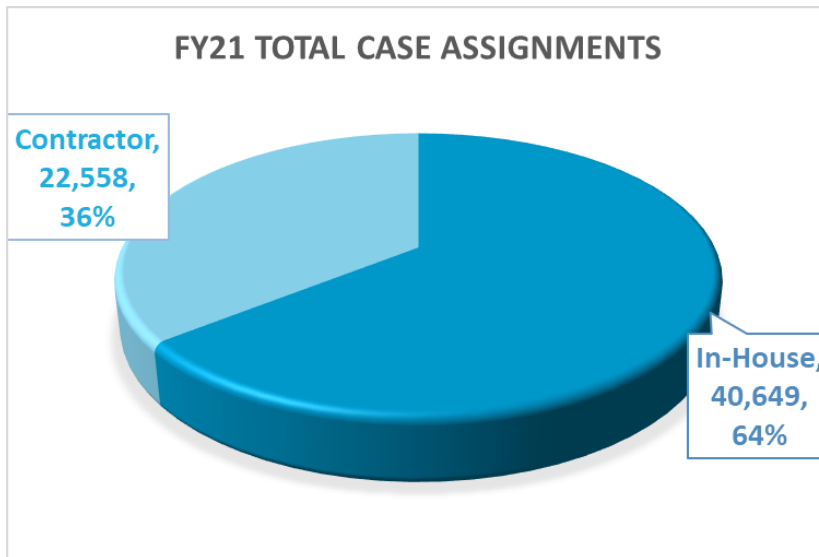
Caseloads

In FY2021, LOPD assigned 63,207 cases. Due to LOPD's efforts to increase retention and stability in staffing, combined with implementation of statewide data entry standards, case assignments have reduced slightly over the last two fiscal years. The average number of case assignments per attorney has declined due to the LOPD efforts to hire attorneys and increase retention of in-house attorneys, as demonstrated in the graph to the right and below.



Regardless, 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.

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 have declined slightly over the last two fiscal years as seen on the previous graph.

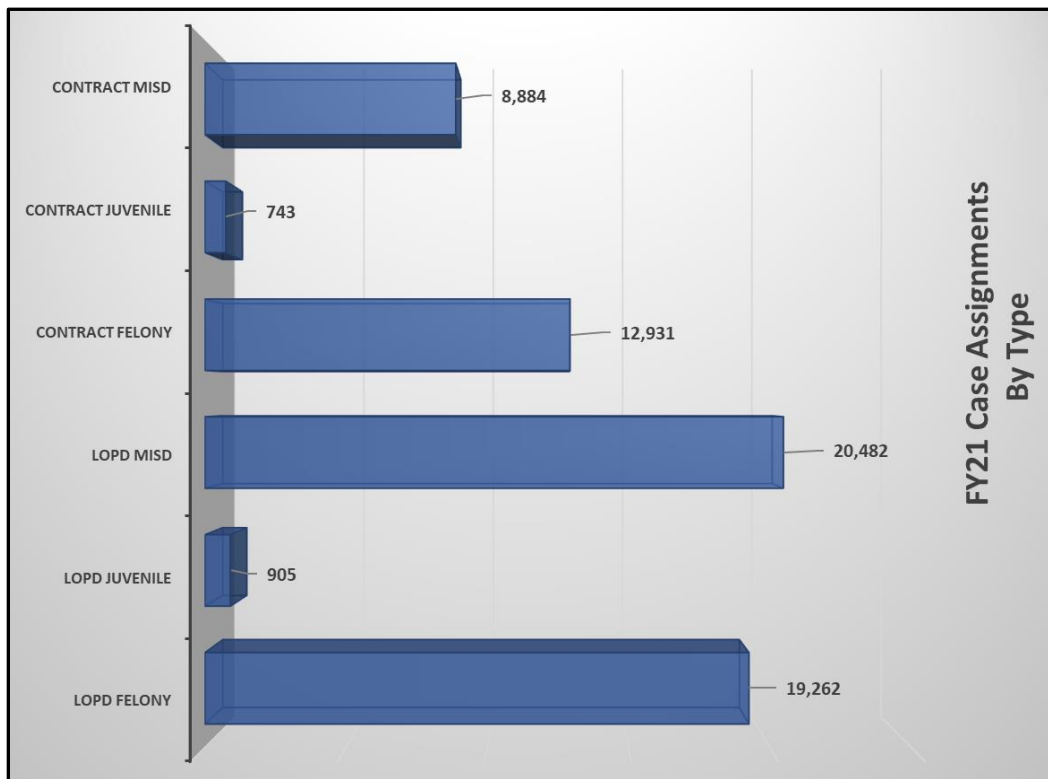


The systemic problems with contract defense in the hybrid model are exacerbated by the excessive workloads carried by many in-house attorneys (of course, contract defenders may suffer from excessive caseloads as well). In FY2021, LOPD attorneys were assigned a total of 223 cases (106 felony, 5 juvenile, and 112 misdemeanor) on average for each attorney. Contract attorneys were assigned an average of 200 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.

LOPD is in the vanguard of a national public defender movement to secure reasonable workloads by conducting a workload study and instituting time keeping to measure actual work time spent on cases. Assessing workload will provide data to assist LOPD in increasing efficiency and accurately identify where and when attorneys are being assigned too many cases for effective assistance of counsel, as evidenced in the following chart.



LOPD will compare workloads nationally and accurately assess the resources needed for every type of case and assess future requests for additional resources. The Legislative Finance Committee's letter of support to the National Association for Public Defense for a workload study 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 data to better understand the role of caseloads on departmental performance measures and the public defender's role in the criminal legal system.

LOPD is dedicated to improving accuracy in data reporting. LOPD is also analyzing data to better understand the roles of caseloads on performance measures and our role in the criminal legal system. In order to further this goal, LOPD has dedicated additional resources, including the transition to a new case management system in April 2019 and allocated a part-time staff member to assist with collecting and reporting data for the quarterly reports. Staff has worked diligently to double and triple check data to reduce error rate and ensure more accurate reporting. LOPD provides quarterly and annual data and includes quarterly and annual narratives.

The Legislative Finance Committee has consistently commended LOPD's efforts in reporting performance measures through narratives in numerous report cards since FY2018 and in other reports. This is one example of that praise from an excerpt from a "Selected Performance Highlights" report:

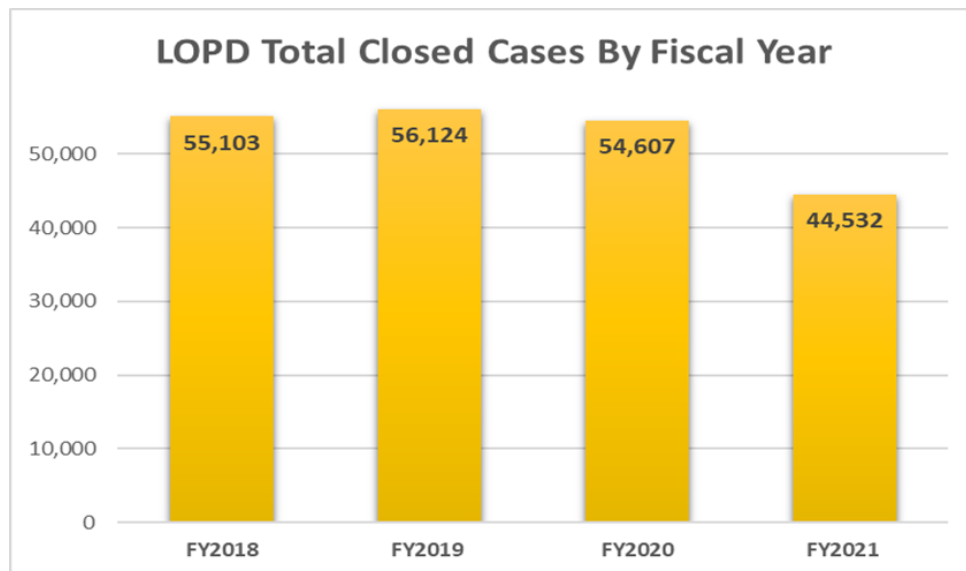
Courts and Justice (page 29)

In the third quarter of the new unified report for the justice system in New Mexico, the Public Defender continued to lead the way for quality reporting. The Public Defender Department provides thorough understanding of the department's performance with meaningful, comprehensive measures, while the courts and district attorneys have fallen behind. Staff continues to work with both the courts and the district attorneys to improve reporting and enhance understanding of agency work.

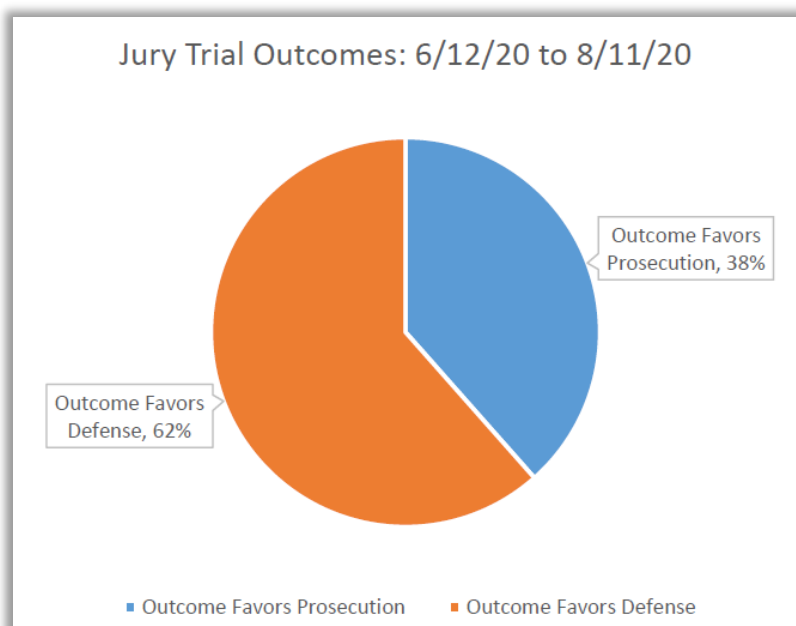
Impact of the COVID-19 Pandemic on the Criminal Legal System and Client Representation

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 has 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 can be resolved either by trial or by plea agreement. Resolutions are 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 compared to previous years, as displayed in the following chart.

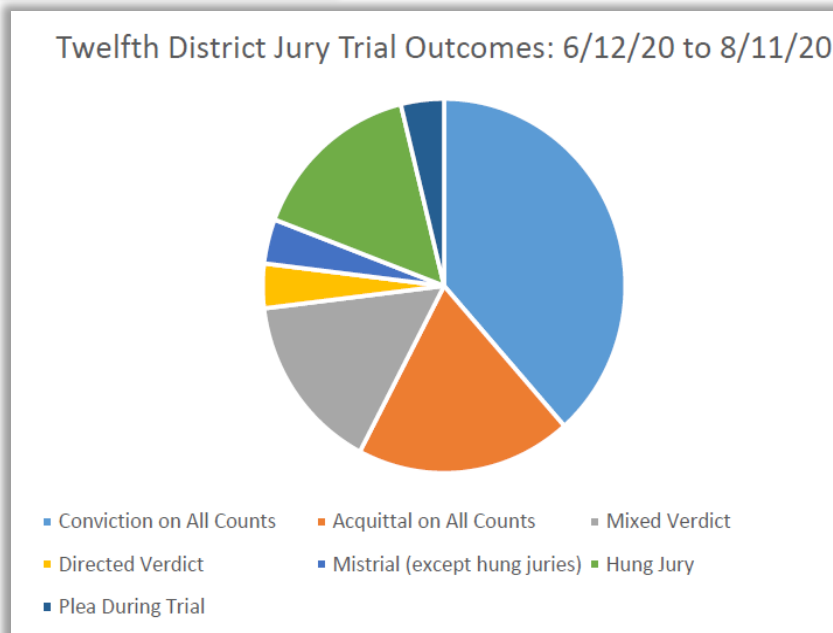


When the court resumed trials in the 12th judicial district after the second shut down of the courts due to COVID-19 in 2021, the 12th judicial district saw an onslaught of jury trials. In February, when trials resumed in the 12th judicial district, LOPD's Alamogordo office faced 170 in-house felony 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 District Defender Matthew Chavez. 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.



On July 10, 2021, the Albuquerque Journal covered the crisis in the article, "[Public defenders in southern NM sound the alarm](#)," The article highlighted the 276 felony trials scheduled for a four week period between July – August. Each 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.

Preparation for such an extreme number of trials requires the seven 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. The preparation is exacerbated further by COVID-19 precautions and concerns. 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 8 attorneys, with 7 of those staffed in rural communities.

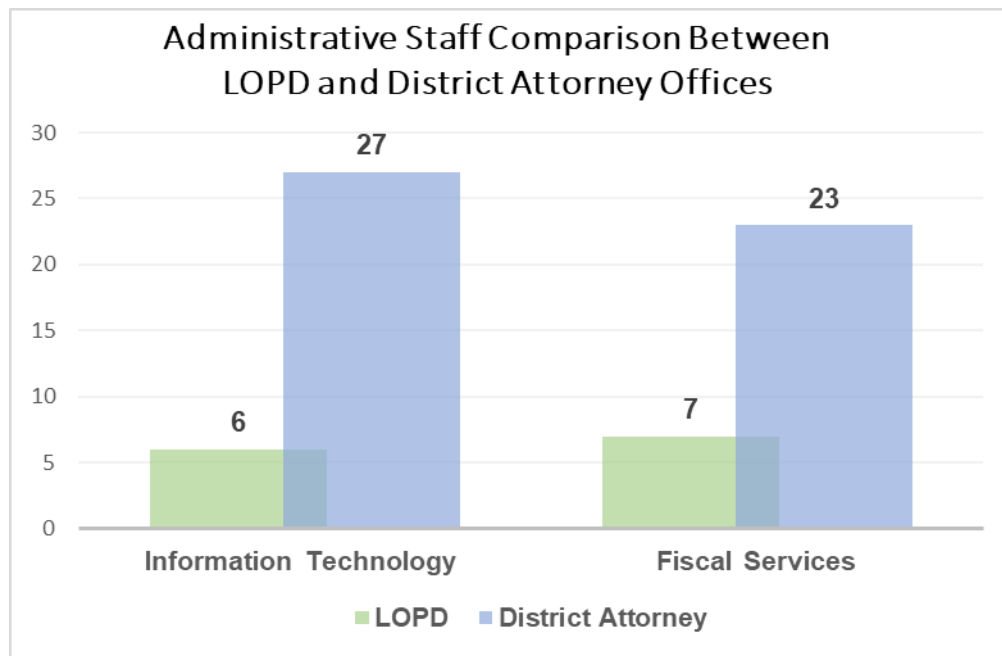
Anticipated Increase in Caseloads, Workloads and Transfer of Expenses

LOPD anticipates that the COVID-19 pandemic will affect client cases for multiple fiscal years. The drastic increase in New Mexico's unemployment rate 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 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.

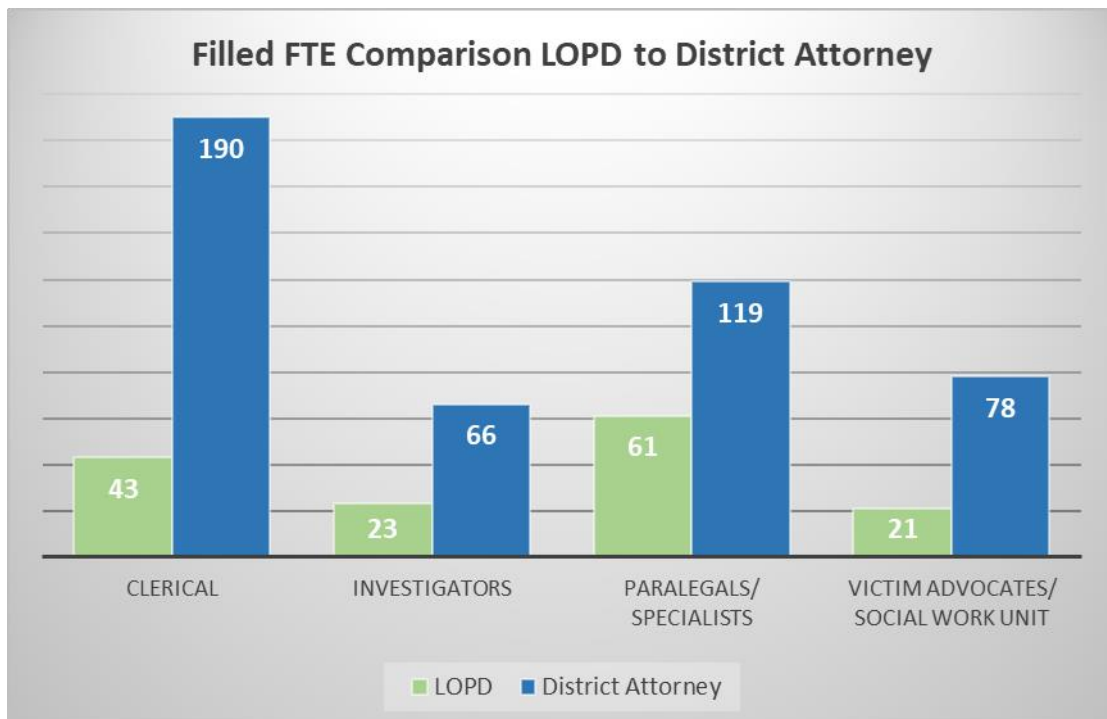
In addition, the type of charges filed in a case directly affects the work required to prepare for trial, which significantly affects workload. LOPD is responsible for an increased number of complex cases. Case complexity impacts the LOPD budget as the more complex and serious cases require additional 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. In FY2021, there has been an overall increase in murder assignments, including 145 murder case assignments to contract counsel in FY2021. LOPD has assigned more murder cases in FY2021 than any other fiscal year.

Public Defense Funding Compared to Other Criminal Legal Partners

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 and are served by both their in-house administration and state-level administration for support. 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).



LOPD has 43 administrative staff dedicated to serving the 439 FTE and 130 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 687 core staff FTE and 352.5 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

LOPD FY2023 STRATEGIC PLAN & ANNUAL REPORT

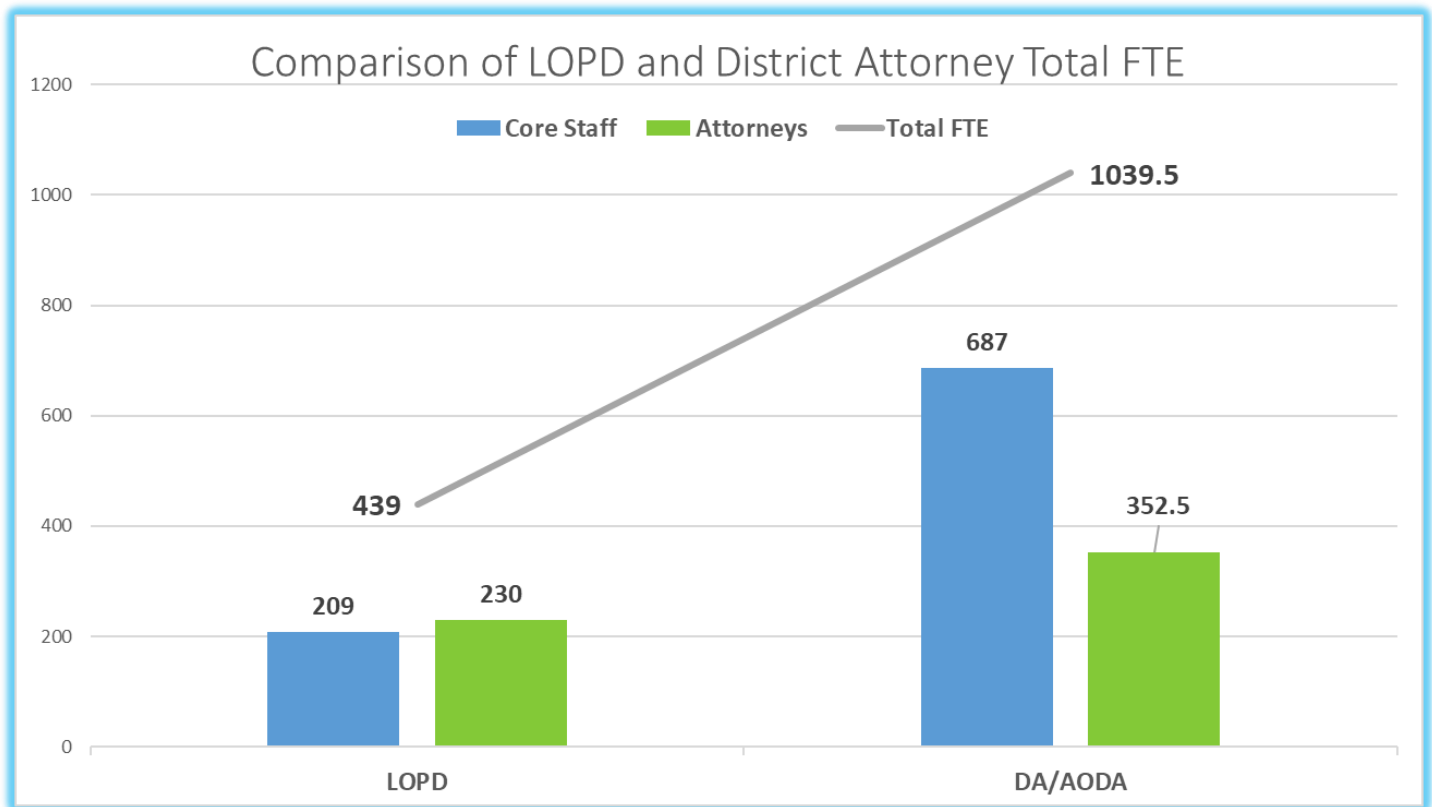
ratios are significantly lower than the DA's indicated statewide average staffing ratios, as illustrated in the following charts and graphs.

	LOPD	DA/AODA	% PD to DA
Core Staff	209	687	30%
Attorneys	230	352.5	65%
Total	439	1039.5	42%

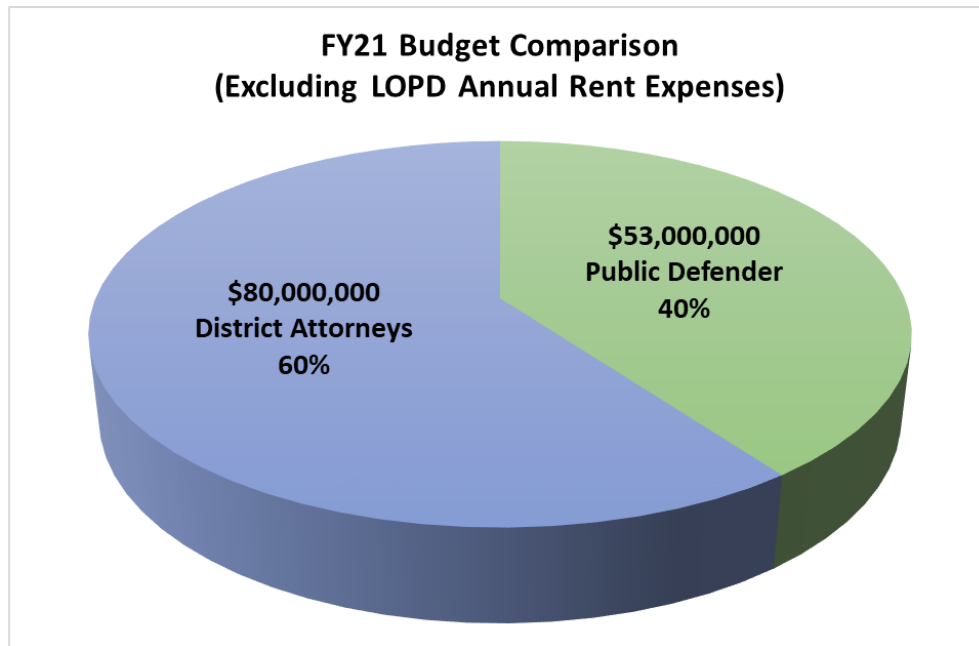
* The charts and graphs use LOPD filled FTE as of July 2, 2021 and DA/AODA filled and total FTE as of July 2, 2021.

**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.



Innovative Recruitment and Retention Program

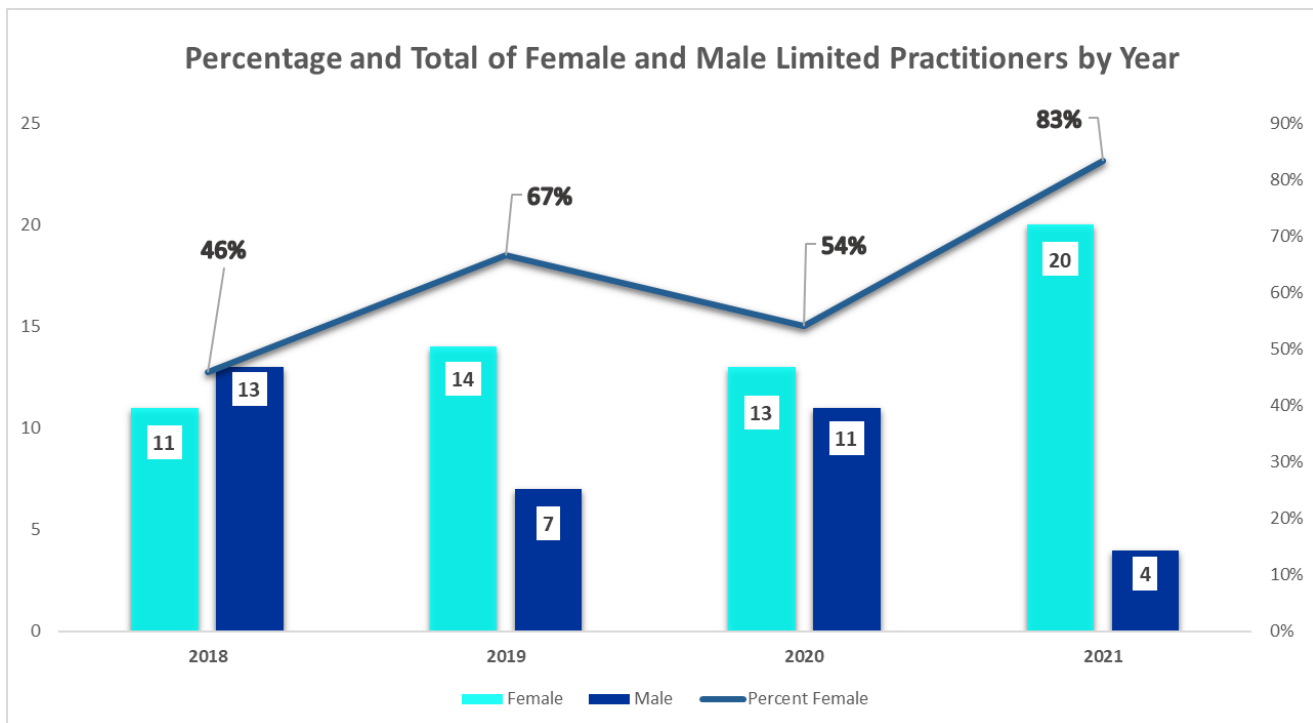
LOPD continues to fight to keep offices staffed to provide services to clients. Turnover is inevitable; however, it is exacerbated by the increased competition in the legal community for attorneys with criminal experience and significant challenges to recruiting in-house and contract attorneys to serve rural communities, combined with new challenges presented by COVID-19 while coordinating with new hires moving between states.

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. While LOPD adopted a new pay scale effective July 1, 2015, which was based upon the pay scale maintained by District Attorneys, 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.

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 which was a shift from previous years when district attorneys had previously labeled the program as "a luxury."

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 externship. 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 FY2019, LOPD secured fourteen limited practitioners placed in five offices statewide. In FY2020, the program successfully expanded with twenty-five limited practitioners hired for seven LOPD offices. Moreover, 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. The total number and percentage of female and male limited practitioners from the last four years is displayed on the following chart.



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.



Deputy Chief Cydni Sanchez interviews limited practitioner candidates during the 2019 Equal Justice Works Conference and Career Fair.



Abq Metro Managing Attorney Tonie Abeyta works with Javier Amaya to help recruit at the UNM School of Law Career Fair in February 2021.



FY2020 class of limited practitioners take a break from new attorney training in August 2019 (*pre-pandemic*) to take a group photo.



NEW MEXICO
LAW OFFICES OF THE
PUBLIC DEFENDER

2021 Limited Practitioner Recruitment

Since its inception, the Limited Practitioner Program continues to maintain its growth and commitment to hiring a diverse workforce.

In 2021, 24 Limited Practitioners were hired representing:

- ♦ 13 Law Schools
- ♦ 9 UNM Law Graduates
- ♦ 11 Different States
- ♦ 20 Women
- ♦ 6 People of Color (POC)

In 2020, 24 Limited Practitioners were hired representing:

- ♦ 13 Law Schools
- ♦ 9 UNM Law Graduates
- ♦ 11 Different States
- ♦ 13 Women
- ♦ 7 POC

In 2019, 21 Limited Practitioners were hired representing:

- ♦ 15 Law Schools
- ♦ 5 UNM Law Graduates
- ♦ 12 Different States
- ♦ 14 Women
- ♦ 7 POC

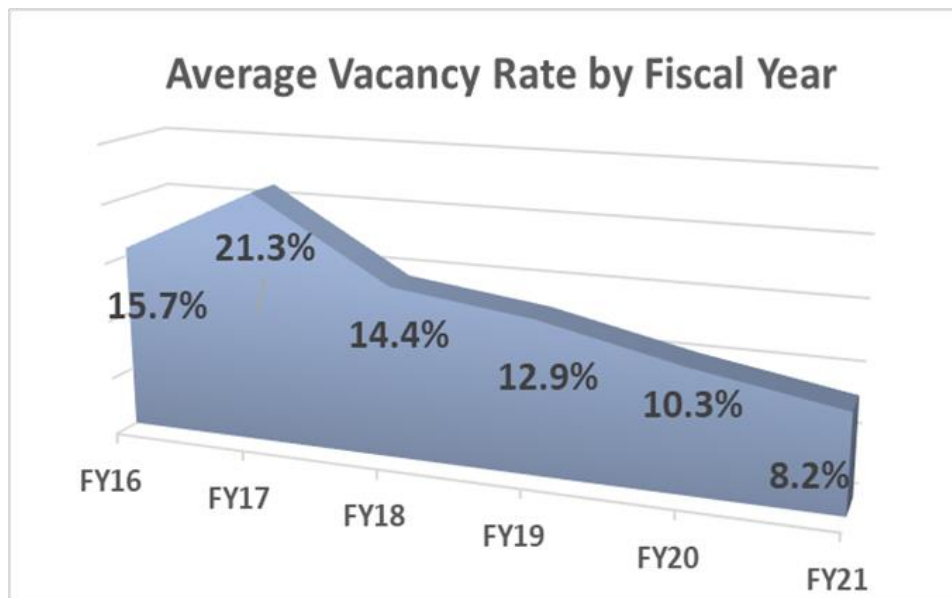
In 2018, 24 Limited Practitioners were hired representing:

- ♦ 10 Law Schools
- ♦ 5 UNM Law Graduates
- ♦ 9 Different States
- ♦ 11 Women
- ♦ 4 POC

"The LP position with New Mexico LOPD is a first-class opportunity for aspiring public defenders. The transition from student to public defender is daunting—clients are entrusting you with their lives. The LP position is meticulously crafted to ensure new public defenders are prepared and empowered to zealously advocate for their clients."—Wolfgang Bomgardner, Assistant Public Defender, 2020 Limited Practitioner

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), or 11.1% (in FY2019). The average vacancy rate in FY2020 was reduced to 10.3%. In FY2021, the average vacancy rate was reduced further to 8.2%.



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. The increase in average attorney FTE also 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 is helping to reduce the numbers, caseload numbers remain too high to provide effective assistance of counsel in all cases.

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. Contractor 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

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 defend it through the Risk Management Division's contracts. Those hourly rates are laid out in the chart below from the Risk Management Division Request for Proposals for attorneys to consult and defend the Public Liability Fund.

Risk Management Division Contract Lawyers Standard Litigation Assignments

Years Experience Practicing Law (from date of licensure)	Corresponding Hourly Rate
0 to 1.99 years	\$ 95.00
2 to 4.99 years	\$ 125.00
5 to 9.99 years	\$ 145.00
10+ years	\$165.00

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

¹ An inflation calculator shows 1968 dollars to be worth just over seven times 2017 dollars.

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 paid an hourly rate of \$148.

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 2020 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 completed execution of its contracts effective November 1, 2020, 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 91 for the FY2020 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.

Necessary Support Staffing Levels

The New Mexico Sentencing Commission does an annual evaluation of staffing levels to determine the outstanding needs of LOPD in comparison to court case levels. According to the 2016 Sentencing Commission calculations, LOPD is currently short 107 attorneys and 78 core staff to adequately cover indigent defense in New Mexico. This calculation takes into account the 130 contractors currently representing on cases statewide. LOPD is seeking the addition of thirty-seven FTE, which includes twenty-eight core staff and eight attorneys for FY2023.

New Mexico Public Defender Department Comparative Analysis of Actual FY2021 FTE Staffing Levels and the New Mexico Sentencing Commission Workload Study Recommendations*			
	FY2021 Filled Full Time Equivalents (FTE's)**	2016 Workload Study Recommendation*	Deficiency in Staffing Levels
Attorney	206	313	107
Attorney Support	148	226	78
Total Direct Client Services FTEs	355	539	184
Administrative Support***	45	n/a	n/a

* The New Mexico Sentencing Commission utilizes data from a 2007 comprehensive workload study and current case statistics in their annual update of LOPD's FTE needs. The above staffing recommendation is based on the New Mexico Sentencing Commission's 2016 update.

**FY2021 Filled Full Time Equivalents (FTE's) as of July 2, 2021.

***Administrative support FTE needs were excluded in the Sentencing Commission's workload study, however, included in the total LOPD's attorney FTE above. The Department currently has 45 FTEs with 39 filled) that are considered the administration or administrative support, not direct client services, including seven administrative positions that require law degrees (Chief Public Defender, four Deputy Chiefs, General Counsel, and Director of Training and Recruitment). Additional positions are necessary to fully implement the tasks that were performed by the Executive Branch (IT, Fiscal, HR) and properly oversee the Contract Counsel services, including auditing invoices.

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 FY2021, the department successfully pivoted to providing virtual trainings to attorneys, core staff, investigators and core staff in response to the COVID-19 pandemic. While employees longed for in-person trainings, the department took advantage of the benefits of virtual trainings such as securing speakers outside of New Mexico and expanding formats and topics. LOPD is hopeful that it will be able to return to an in-person conference in FY2022.

To ensure licensure requirements were met for attorneys, trainings were held twice a month for in-house attorneys as well as contract defenders where topics focused on New Mexico law and issues. The workshop format breaks down topics into sections and sessions are held over several weeks allowing attorneys to digest the material. A "bring your case" component was

used to encourage interaction and feedback. Virtual trainings had benefits that were cost effective and included access to speaker expertise and diversity. Over 400 employees including attorneys, core staff, investigators and social workers participated in the first ever National Association of Public Defense Virtual training in March 2021 with over 10,000 attendees from around the country. The event's speakers, from around the country, held expertise in criminal defense, and numerous networking opportunities were provided. Additionally, LOPD provided trainings on racial injustice, cultural humility, resilience, and wellness.

LOPD's investment in its employees and providing training, specifically in leadership and supervision development, has improved morale and alleviated on-going challenges with retention of core staff employees. In FY2020, thirty-four core staff employees left the department, which was a significant decrease from the forty-seven that departed in FY2019. In FY2021, seven employees retired from LOPD, while twenty-two core staff employees left the department, which is a reduction of 50% from the total departing the prior year.



Albuquerque Felony Division team members pose for a picture after a potluck.

Strategic Planning Process

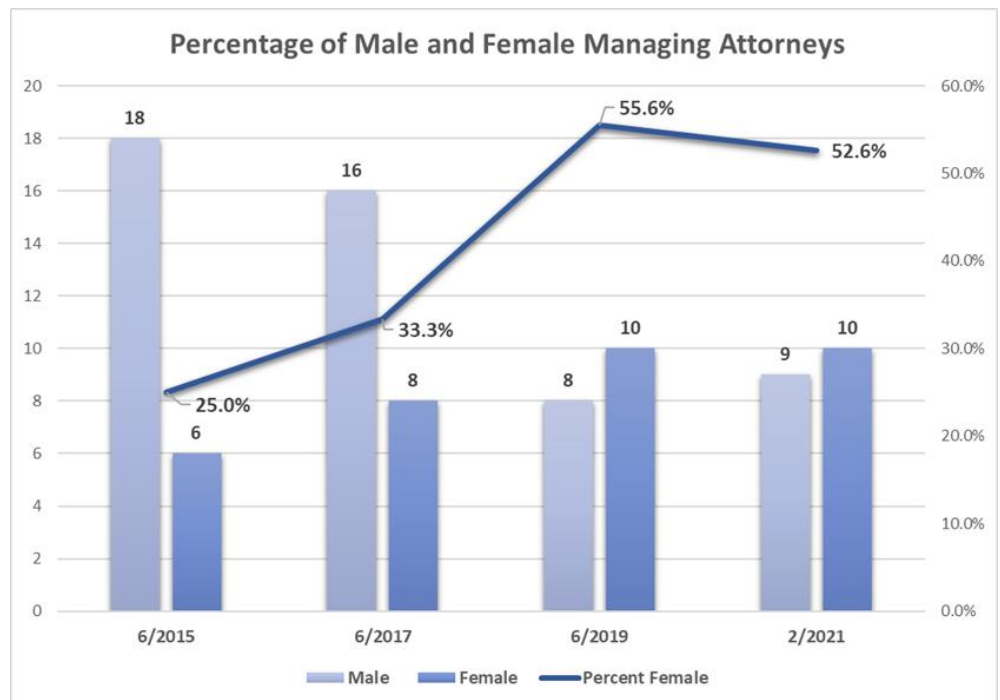
In FY2021, LOPD launched a strategic planning process for the department. This process will enable LOPD to re-center on its mission, refine its vision of success, and focus time and resources on the projects and initiatives with the greatest potential for transforming LOPD in order to support the LOPD 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 will develop a plan, and LOPD leadership, employees, and the Public Defender Commission will work to implement its goals and measure success.

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 two 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.



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.



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 worked to secure a sizable grant award for over \$200,000 from the Federal Coronavirus Emergency Supplemental Funding grant for use in FY2022.

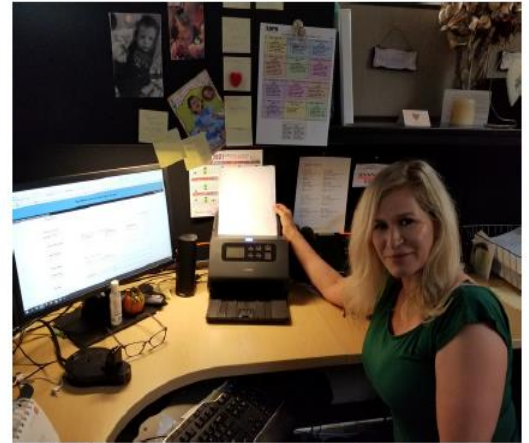
Improving Client Services through Technological Enhancements

Electronic Archiving – LOPD requested and was appropriated specialized funding in FY21, which was used to build a state-of-the-art document management system, which became operational in June 2021. LOPD used funding to purchase scanners for offices statewide. The FY22 funding will be used to scan 3,000 archive boxes with client files into the document management system. The entire transition to digital archiving will likely take an additional two years and eliminate the stacks of boxes in all office. This project will also help core staff reduce time spent on searching for physical files.

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.

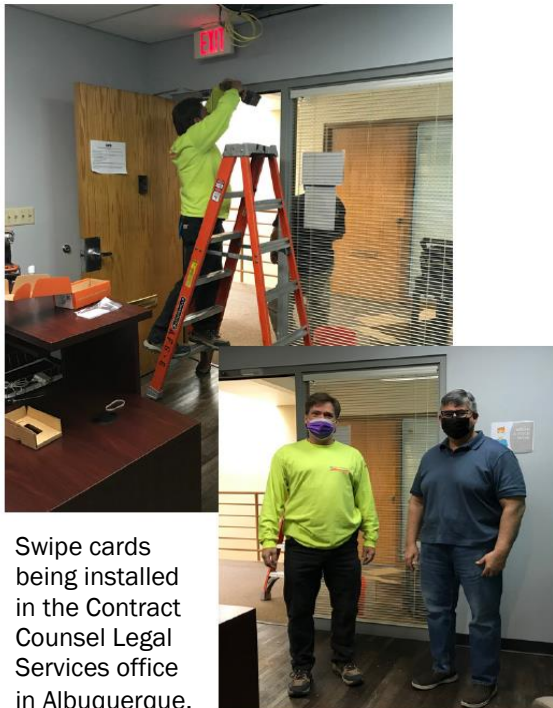
Improving Employee Services

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 four 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.



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



Deputy Chief Randy Chavez grew up in the small community of Cuba where he says poverty is widespread and children are hungry to hear of success. He was one of 12 Cuba High School alumni to join in “Motivational Monday,” speaking sessions created by a Cuba teacher who noticed her students fear for their future. He addressed nearly 100 Zoom attendees about his road to law school and his career. He then took questions that he said surprised him.

“It is important for individuals from these rural communities to be more involved. I believe we can reach a certain number of students and give them hope that others in their similar situations can have successful careers after achieving post-high school educations,” Chavez said.



Carlsbad Managing Attorney Nate Banks, far left, and 5th District Defender Deirdre Ewing visit, far right, at the opening of a new treatment center for mothers with small children. During the visit, they greeted community members by first name and made plans to get clients connected right away.

The two also work closely with Carlsbad’s mayor and team to keep communication open and solutions front and center. In the picture below, they are visiting and thinking about positive news coverage of clients who are succeeding in recovery and treatment.





In August 2020, Ibukun Adepoju, District Defender for the 9th and part of the 5th judicial districts, including Clovis, Portales and Hobbs, was selected to serve on New Mexico's Council for Racial Justice subcommittee on Public Safety and Law Enforcement by Governor Michelle Lujan Grisham.

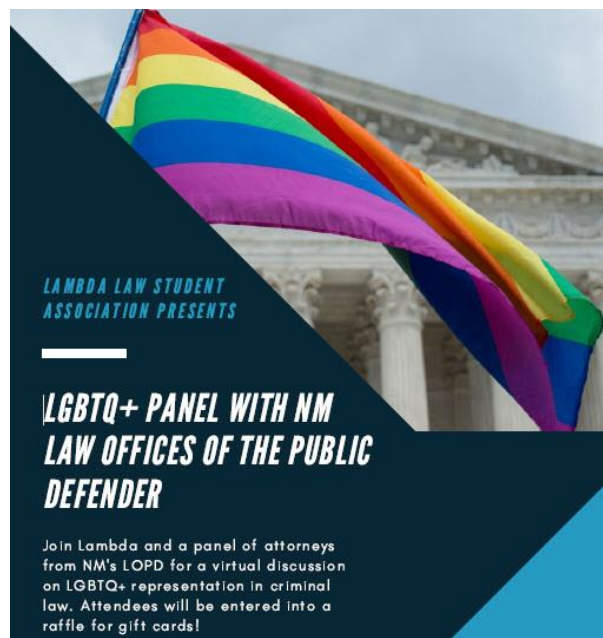
"I feel incredibly honored to sit on this council but even more importantly the subcommittee on public safety and law enforcement. I hope to represent the interests of criminal defense on this committee," Adepoju said.



The Albuquerque office gathered in Roosevelt Park for an office-wide cookout. In the park at the same time was a gathering of teen mentors, groups playing Frisbee golf and families gathered to enjoy the nice weather. About 70 LOPD employees and their families joined the festivities.

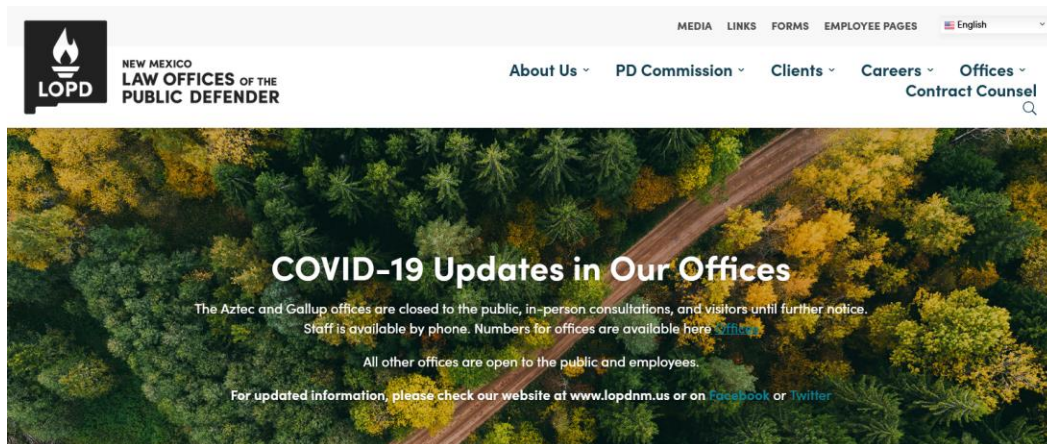
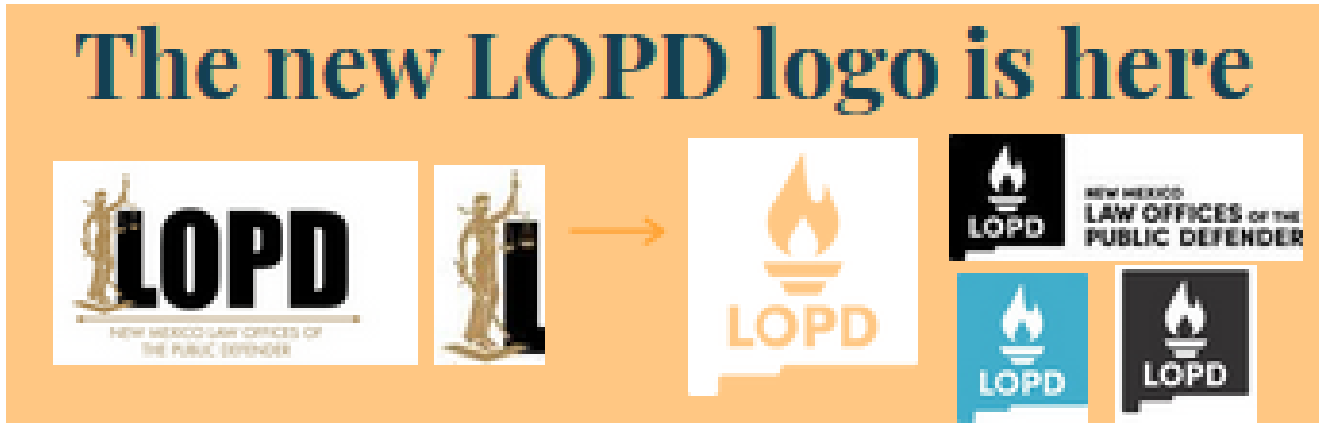
Several LOPD attorneys from around the state represented the department and profession at a recent UNM School of Law panel put on by Lambda Law Student Association.

LAMBDA "provide[s] support, networking, and social events for members of the gay, lesbian, bi-sexual, and transgendered community and their friends at the University of New Mexico School of Law" in addition to advocating on legal issues affecting the LGBT community and equal and legally-protected human rights, regardless of sexual orientation.



New Logo and Website

The Department undertook a logo refreshment to go along with a new website design, which should unveil by January 2022. The new logo is a flame over a column-like base. It replaces the old logo, which was not easily scalable. The new website is sleek and, importantly, accessible on cellphones.



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



FY2023 GOALS AND OBJECTIVES

- I. GOAL/OBJECTIVE: Strengthen statewide network of Public Defender Attorneys and Contract Defenders to improve rural representation to ensure effective indigent defense.
 - 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. Current recruitment efforts have been focused on attorneys. Expanding those efforts to include prospective employees from core staff, investigators, and social workers will improve retention and decrease vacancy rate.
 - i. LOPD seeks to build a team of professionals who support the mission of the organization with a commitment to the long-term benefit of the protection of 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 attorneys and 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 expansion of the hourly rate pilot project and additional funding 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. With appropriate levels of attorney representation and reduction of unnecessary delays, resolution of cases will be timely and efficient; with increased efficiency, unnecessary delays will be reduced; with more timely resolution of cases, court backlogs are eliminated and jail overcrowding is reduced - and justice is served.
 - ii. In FY2022, LOPD will continue to analyze data from the hourly rate pilot project to determine how best to proceed. 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 for statewide implementation of an hourly rate for contract counsel.
 - c. Action Step: Continue investing in 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 as well as self-care and wellbeing.
 - iii. Training and Recruitment Director will coordinate with LOPD's District Defenders and regional managers to designate attorneys to participate in trainings.
 - iv. Training and Recruitment Director will facilitate training for new attorney hires recently sworn into the New Mexico 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.
 - v. In FY2022, 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 through both virtual and in-person opportunities.
- d. Action Step: Evaluate processes and procedures for efficient management of scarce LOPD budgetary and personnel resources.
- i. Since FY2017, LOPD has evaluated statewide eligibility, data entry, and procedures to standardize processing within each district office, which has increased accuracy in data reporting and improved efficiency.
 - ii. Since FY2015, LOPD has regularly assessed client service needs in our regional offices and divisions and has reallocated positions and human resources as needed. Factors such as workload, caseloads, retention, and economic and population changes are considered in long-term trends.

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 and become contributing members of society.
- d. Action Step: Continue leadership and active involvement in criminal justice reforms.
 - i. LOPD will continue to collaborate with District Attorneys and courts statewide to create and utilize 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: Attain parity in staffing by aligning Public Defender staffing levels similar to those of the District Attorneys.

- a. Action Step: Obtain funding in FY2023 budget request to hire an additional thirty-seven FTE, broken down as follows:
 - i. Additional twenty-nine FTE dedicated to direct client services and representation, including: eighteen core staff (social workers, peer case managers, paralegals, etc.), three investigators and eight attorneys (seven being assigned to rural communities). The additional core staff and attorney positions would be distributed statewide to address the most critical areas of need, including adequate coverage of southern and eastern New Mexico, and social work unit services.
 - ii. Eight FTE (seven core staff and one attorney) dedicated to administrative functions serving employees, including human resources, fiscal division, IT, data analysis and auditing hourly rate invoices.
- b. Action Step: Educate Legislators and criminal legal partners about the disparity in staffing.
 - i. Compile reliable and accurate comparisons between district attorney offices, AODA, and LOPD.
 - ii. Increase awareness of detrimental effects in our communities caused by the disparity.
- c. 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 an additional thirty-seven FTE (twenty-eight core staff and nine attorneys) for FY2023.

SUMMARY OF PERFORMANCE MEASURES

FY2023 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.
8. Number of cases dismissed in felony, misdemeanor, and juvenile cases.*
9. Number of cases closed by attorneys.*
10. Average number of cases opened by district (*reported for staff attorneys by county*).*
11. Difference between the number of cases opened and closed by office.*

* *Performance Measures added in FY2020.*