



# New Mexico Public Defender Commission

Raymond Sanchez  
Vice Chair

Thomas Joseph Clear, III  
Chair

Daniel Banks  
Secretary

Justice Richard Bosson, Ret.  
Jacqueline Flores  
Gina Maestas  
Traci Neff

Naomi Salazar  
Michael Sanchez  
Melissa Sawyers  
Peter Schoenburg

## **NEW MEXICO PUBLIC DEFENDER COMMISSION** **Minutes of August 18, 2022 General Meeting and Elections** ***Remote Videoconference Meeting***

I. Call to Order: The New Mexico Public Defender Commission Meeting was called to order by Chair Thomas J. Clear, III, on Thursday, August 18, 2022, at 1:30 pm.

II. Roll Call: Public Defender Commissioners

Thomas Clear, Chairman  
Vice Chair Raymond Sanchez  
Secretary Daniel Banks  
Commissioner Justice Richard Bosson, Ret.  
Commissioner Jacqueline Flores  
Commissioner Gina Maestas  
Commissioner Traci Neff  
Commissioner Naomi Salazar  
Commissioner Michael Sanchez  
Commissioner Melissa Sawyers  
Commissioner Peter Schoenberg

III. Introduction of Guests:

Chief Public Defender Bennett Baur  
Deputy Chief Phillip Larragoite  
Deputy Chief Cydni Sanchez  
Deputy Chief Randy Chavez  
Deputy Chief Jennifer Barela  
Deputy Chief Randy Chavez  
Ronald Herrera, Human Resources Director  
Adrianne Turner, General Counsel  
Christina Keyes, CFO  
Matthew Bevington, IT Director

*Approved and Adopted Unanimously*  
**1-27-2023**  
*Thomas J. Clear, III, Chair*

Maggie Shepard, Chief Information Officer  
Julie Kitch, Programs Administrator  
2<sup>nd</sup> Judicial District Defender Matthew Chavez  
9<sup>th</sup> Judicial District Defender Ibukun Adepoju  
Dayna Jones, Managing Attorney 12<sup>th</sup> Judicial District  
Steve Ochoa, Supervising Attorney Ruidoso  
Veronica Rosales  
LFC Analyst Ellen Rabin  
Marie Legrand Miller  
Kelly Golightley  
Summer Alston

IV. Adoption of Agenda. Moved by Vice Chair Raymond Sanchez seconded by Commissioner Richard Bosson. Motion passed unanimously. (Agenda attached)

V. Adoption of Minutes of June 10, 2022: Secretary Dan Banks  
Moved by Commissioner Dan Banks. Seconded by Commissioner Naomi Salazar. Motion passed unanimously. (Minutes attached)

VI. Swearing in New Commissioner: Peter Schoenburg  
After introductory remarks, Chairman Clear asked Retired Justice Richard Bosson to administer the Oath of Office to Peter Schoenburg.

VII. Report from Commission Chair: Thomas J. Clear, III  
Chairman Clear remarked on the Budget request indicating it is a massive request to the legislature. Chairman Clear indicated it was exciting reflecting on how far the New Mexico Law Office of the Public Defender's Office, as well as our contract counsel, have come since the Public Defender Commission was formed. The accomplishments are impressive, but there is still much work to do to provide Constitutionally guaranteed representation to the indigent people accused of crimes in New Mexico. The LOPD's development of a five-year plan with individual one-year plans are part of the strategy to implement and get closer to what is needed. The bridges that are being built are leading the LOPD to a bright and brighter future ... "Wow, it's exciting, It's really impressive." He offered congratulations to Chief Baur, all of the Deputy Chiefs and the District Defenders. Chairman Clear concluded by reporting there are no lawsuits pending with employees against the department.

VIII. Report from LOPD Chief: Bennett Baur

A. Five Year Plan Update

Chief Baur reported LOPD is working on a five-year plan that will be presented to the legislature and to the governor's office. Hopes are that five-year plan will be ready by the last week of September to present to the Courts and Criminal Justice Committee.

B. Statewide Update

Chief Baur began by telling the Commissioners over the last 10 years now, LOPD has gotten much better at pursuing its mission to provide excellent representation to defendants in criminal courts

across the state. Moving forward the budget and the staffing for next fiscal year is indicative of the groundwork that's been laid over 10 years.

Chief Baur further reported that last fiscal year LOPD added four positions to the department in the 12th, 5th and one to statewide habeas.

“For the current fiscal year, we are adding 26 new positions somewhat evenly divided between lawyer positions and core staff positions. We also added to our contract budget. These expansions are tied into the workload study.”

“We are implementing restorative justice and community work. In Albuquerque at the New Mexico Black Leadership Counsel, we attended an open house for a new community project called Uplift and distributed materials. Tomorrow, for the first time we are doing office hours at a community organization and have publicized it through them where we will have our staff there to work, to answer questions from people who walk in and to make our presence felt within the community.”

“We are expanding our personnel and looking at our training and recruitment division, we have 21 limited practitioners, these are new law school graduates that started here in August, they represent 14 law schools, 5 of them are from the UNM School of Law, they come from 13 different states and 14 of them are women. We are very proud of the recruitment that we've done to bring in new attorneys across the state.”

“We have a new website going live in September.”

“We've been archiving old records, diligently.”

“Our vacancy rate is an issue really throughout our communities. Our vacancy rate was the lowest it's ever been. Early in COVID it was down to almost 6% . But we're not immune to the great resignation of the shifting of employment patterns. We're at approximately 15% now but we've been addressing this.”

“The jail situation around the state has been in the news somewhat. The staffing problems throughout county jails, signals a fundamental problem with our criminal court and justice system. I met with the Chief Justice and with the executive director of the Association of Counties last week, got data from the Association of Counties on the vacancy rates at county correctional facilities around the state... There are five or six of those who have vacancy rates at or over 50%. We've had problems with visitation. Visitation was stopped at the Metro Detention Center in Albuquerque “

“There are other ways that we're seeing our clients and that includes having them transported to our office, which strangely enough is something the jail can do, but they can't set up safe visitation for us within the jail facilities. In Alamo, in Otero County, the county facility has been so short staffed that they're sending out almost all of their detainees to other facilities, including at least one in the state of Texas. That's creating all kinds of problems for our visitation, for the court processes. One way to address the problem in the county jail system is to cut down on the number of people that are there. Doing it intentionally, rather than when it becomes such a crisis that we're not being smart about it. “

C. Contract Counsel Update: Contract Hotel Expenses

Deputy Chief Randy Chavez advised the Commissioners the Department of Finance has raised the rates for per diem around the state. That information has been sent out to the contractors, in addition to an email indicating that in times when there are hotel costs over and above the per diem rates, that all they need to do is send a request for the public defender's office to pay for the additional hotel costs, along with a receipt or an estimate of the hotel costs. And as long as it is approved ahead of time, there will be approval for the higher rates for those hotel costs.

D. Budget Request: Presentation and Vote of FY 2023-2024 Budget Request

Following a full discussion of the current Budget Request, Commissioner Melissa Sawyers moved to adopt the Budget Request, seconded by Commissioner Gina Maestas. The Motion passed unanimously.

IX. Public Comment: There was no Public Comment.

X. Executive Session: There was no Executive Session

XI. Committee Reports

A. Litigation Committee:

Chairman Clear announced he has not made an appointment of a Committee Chair, but such announcement will be made shortly. No Report was made.

B. Budget and Finance Committee:

Chairman Clear appointed retired Supreme Court Justice Richard Bosson to be the Chair of the Finance and Budget Committee. There was no report.

C. Contract Counsel: Commissioners Jackie Flores and Gina Maestas.

Commissioner Jackie Flores reported the first Committee meeting was August 9th with great turnout. The primary focus was to ensure a good line of communication with our contract attorneys. "We discussed the compensation rates and how contract attorneys might apply for extra resources to pay for mileage and/or hotel, that kind of thing. We also discussed the budget proposal and what we were focused on asking for and what the basis for the asking was. Also, we discussed the issue with the in-person hearings versus the virtual hearings and how that has such a terrible impact on contract counsel, especially when they're expected to sometimes drive very long distances for very short hearings."

Deputy Chief Chavez discussed how important it is for contract attorneys to engage in documenting information on the defender data system.

Commissioner Flores reported discussions about oversight and about what we can possibly do to ensure that some of the newer attorneys have some guidance, and they know how important it is to work for their clients and make sure to do the work to ensure that their clients have their best chance. Further discussion concerned dealing with those jurisdictions in the rural parts of the state, where some of the judges are beginning to rely on disciplinary proceedings to force contract attorneys to come to court, even for those really short pre-trial hearings.

D. Legislative Committee: Vice Chair Raymond Sanchez and Deputy Phillip Larragoite

Deputy Chief Larragoite shared his observations with Commissioners. He stated there's a lot happening and we're participating, and we're graced with legislative staff that understand our issues, and that is willing to do the work to make the changes that are required.

The most remarkable development has been the collaboration between the Legislative Finance Committee, the Interim Committees, and the Standing Committees of the legislature. Deputy Cydni Sanchez has put together such good reporting from our department to the LFC with the very best reporting grades in the state of any of the state agencies. We are responsive and we respond quickly.

## XII. Elections

### A. Chair

Chairman Clear opened the floor for nominations for Chair. Vice Chair Raymond Sanchez nominated Tom Clear, seconded by Commissioner Richard Bosson. No other nominations were made. Vice Chair Raymond Sanchez moved to accept the election by acclamation, seconded by Commissioner Bosson. The Motion passed unanimously.

### B. Vice Chair

Chairman Clear opened the floor for nominations for Vice Chair. Commissioner Naomi Salazar nominated Raymond Sanchez, seconded by Commissioner Melissa Sawyers. No other nominations were made. Commissioner Naomi Salazar moved to accept the election by acclamation, seconded by Commissioner Sawyers. The Motion passed unanimously.

### C. Secretary

Chairman Clear opened the floor for nominations for Secretary. Commissioner Naomi Salazar nominated Dan Banks, seconded by Commissioner Gina Maestas. No other nominations were made. Commissioner Naomi Salazar moved to accept the election by acclamation, seconded by Commissioner Maestas. The Motion passed unanimously.

## XIII. Upcoming Events:

### A. Announcement of Retreat with Commissioners and LOPD Executive Officers and District Defenders

Chairman Clear said there are a lot of delightful personalities that many of us haven't really had a chance to spend time with, break bread with, or share a good tale with. That is the Chair's vision for the proposed Retreat: some work being done to move things forward, but also, to give everyone a chance to sit down and share ideas. The LOPD administration was tasked with figuring out a good date in the coming year for a retreat. The next Commission Meeting and possible retreat will be announced at a later date.

XIV. Adjourn: Motion to adjourn by Commissioner Dan Banks, Second by Commissioner Michael Sanchez. Motion passed unanimously. Meeting adjourned at 3:45 p.m.