



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

Chief Public Defender  
Bennett J. Baur

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# **The Fiscal Year 2024 Compensation & Classification Plan**

Submitted by Ronald Herrera

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## 1. COMPENSATION & CLASSIFICATION PHILOSOPHY

Develop compensation goals and strategies to support the Law Offices of the Public Defender's (LOPD) operational needs, competitive outlook, and human capital needs. Ensuring that employee pay is competitive – and not just for new hires – by confirming that our long-term employees are being paid competitively with the market is essential. Employee compensation should be equitable, fair, policy compliant, and legal and achieve the following:

- Pay transparency and clearly communicate details to employees
- Motivate employees to perform at the best of their competencies, abilities, and skill sets.
- Recruit and retain key talent and reward high-performing employees.
- Maintain fiscal responsibility.

Ensure that an employee's job duties accurately reflect the job classification description of their position and that the classification system supports recognizing professional development related to job duties. Improving the level of performance and professionalism of LOPD employees through job classification will ultimately enhance client service.

We should not lose sight of our short and long-term requirements and diligently work to respond to employee needs and wants. Our focus is on creating a great place to work in an increasingly complex time.

## 2. HISTORY of PAY INCREASES

| Fiscal Year (FY) | Legislative Pay Increases <sup>1</sup>     | LOPD Authorized Pay Adjustments <sup>2</sup>   | NM Sentencing Commission Grant(NMSC) <sup>3</sup> | Details  |
|------------------|--|--|---|--|
| FY14             | 1%   | 0  |   | All state employees who completed their probationary period  |
| FY15             | 3%   | Geographic Pay Differential for rural offices was increased  |   | LOPD attorneys and social workers outside Albuquerque and Santa Fe received this pay differential.   |
| FY16             | 0  | Employee pay was raised to 90% compa-ratio   |   | 53 employees in 9 different pay ranges, whose pay was less than a 90% compa-ratio received pay raises.   |
| FY17             | 0  | 0  |   | LOPD initiates a classification and compensation study to create a salary structure supported by comparison to similar positions in like organizations.  |
| FY18             | 0  | Geographic Pay Differentials Increased<br><br>31 employees in 8 different pay ranges received pay increases. |   | LOPD attorneys and social workers in Alamogordo, Carlsbad, Clovis, Portales, Hobbs, Roswell, and Ruidoso offices were eligible.<br><br>Social worker pay was the primary focus.  |
| FY19             | 2%<br><br>4.5% Increase for LOPD employees | 0  |   | All eligible State employees received the 2% increase.<br><br>All eligible LOPD employees received the 4.5% raise – not all State employees.<br><br>The LOPD classification and compensation study is implemented. 13 employees in four different PD job classifications received pay raises.                |
| FY20             | 4%   | 2% Loyalty Increase  |   | 41 core-staff employees with 10 yrs. or more with LOPD received a 2% pay raise   |
| FY21             | 1%   | 0<br><br>District Defenders & Managing Attorneys received varying pay raises.                                |   | Employees who completed probation and are earning under 50K got the pay 1% pay raise<br><br>Pay raises reflect appropriate placement and internal alignment.   |
| FY22             | 1.5%                                       | Deputy Chief Public Defenders and Investigator 2s get pay increases.   |   | Pay raises for the Deputy Chiefs reflect competitive market value.<br>Investigator 2 pay was increased to reflect appropriate placement and internal alignment.  |
| FY22             | 3%   | 26 employees were approved to receive In Pay Range Adjustments<br><br>LOPD One-time 3% pay increase          |   | Awarded only to employees hired on or before 06/30/22<br><br>Pursuant to Interpretive Memo 2021-01, In Pay Range Adjustments, supervisors submitted eligible employees for pay raises<br><br>Employees hired before April 12, 2022, received a raise. Pay raises were to remain competitive with the market. |

<sup>1</sup> The amount of funds available annually for salary increases will be determined by Legislative branch leadership. The amount may vary each year dependent on the budget. Legislative leadership typically identifies the employee eligibility criteria for these pay raises.

<sup>2</sup> These pay raises are authorized by the Chief Public Defender in accordance with New Mexico Administrative Code. The legislature did not grant additional funding.

<sup>3</sup> LOPD was awarded one of the NMSC Crime Reduction Grants that provides funding for recruitment and retention bonuses to attorneys employed by LOPD (<https://nmsc.unm.edu/crime-reduction-grants/index.html>).

| Fiscal Year (FY) | Legislative Pay Increases <sup>3</sup>                                  | LOPD Authorized Pay Adjustments <sup>4</sup>   | NM Sentencing Commission Grant(NMSC) <sup>3</sup> | Details   |
|------------------|---|--|---|---|
| FY23             | 0   | <p>56 employees were approved to receive In Pay Range Adjustments</p> <hr/> <p>LOPD Employees Moved to Minimum</p> <hr/> <p>LOPD One-time 5% or 6.8% pay increase</p> <hr/> <p>LOPD One-time retention bonus</p> <hr/> |   | <p>February In Pay Range Adjustment Requests; Effective 4/15/2023.</p> <hr/> <p>LOPD Salary Grades was revised, Effective April 1, 2023 and 118 LOPD employees were raised to the salary range minimum, effective May 13, 2023.</p> <hr/> <p>All eligible probationary LOPD employees received the 5% raise.</p> <p>All eligible career LOPD employees received the 6.8% raise.</p> <hr/> <p>All eligible employees received a one-time retention bonus. Career employees received \$1,500; full-time probationary employees received \$1,000.</p>  |
| FY23             | <p><b>6%</b></p> <hr/> <p><b>2% Increase for Judicial employees</b></p> |  |   | <p>All eligible State employees received the 6% increase.</p> <hr/> <p>All eligible Judicial employees received the 2% raise – not all State employees.</p>   |
| FY23             |   |  | NMSC total award amount to LOPD \$412,500         | <p>Eligible Attorneys in the following judicial districts were awarded the grant: 1<sup>st</sup> (Santa Fe Trial), 5<sup>th</sup>, 9<sup>th</sup>, and the 11<sup>th</sup> (McKinley County).</p> <p>\$5000.00 Less than 5 years of continuous employment with the designated LOPD office</p> <p>\$7500.00 5 years or more but less than 10 years of continuous employment with the designated LOPD office</p> <p>\$10,000.00 10 years or more of continuous employment with the designated LOPD office.</p> <p>District Defender's received, \$10,000.00 10 years or more of continuous employment with the designated LOPD office.</p> <p>General Counsel and Attorney Training and Recruitment Manager received \$5000.00 Less than 5 years of continuous employment with the designated LOPD office</p> |

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| Fiscal Year (FY) | Legislative Pay Increases <sup>5</sup>                           | LOPD Authorized Pay Adjustments <sup>6</sup> | NM Sentencing Commission Grant(NMSC) <sup>3</sup>             | Details   |
|------------------|--|--|---|---|
| FY24             |  |  | NMSC total award amount to LOPD \$206,0000                    | <p>Eligible Attorneys in the following judicial districts were awarded the grant: 2<sup>nd</sup> (Metro/Felony), and 12<sup>th</sup></p> <p>\$5000.00 Less than 5 years of continuous employment with the designated LOPD office</p> <p>\$7500.00 5 years or more but less than 10 years of continuous employment with the designated LOPD office</p> <p>\$10,000.00 10 years or more of continuous employment with the designated LOPD office.</p> |
| FY24             | <b>HB-357 (Public Attorney Workforce Capacity Building Fund)</b> |  | HB-357 total award amount to LOPD \$1million per fiscal year. | Awarded to LOPD districts by application and approval process. Aug. 2023 first round of applications due. Rolling application period from September 2023 - June 2024.   |

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### 3. SALARY ADMINISTRATION GUIDELINES

#### Overview

Salary Administration is designed to establish and maintain fair and equitable salaries and make sound compensation delivery decisions within a classification and compensation plan. The information provided is intended to be used as a tool, not rules to achieve effective salary administration. Effective salary administration can be achieved by:

- Applying LOPD pay policies consistently;
- Understanding the salary ranges and market values;
- Understanding job duties and accountabilities within LOPD to set appropriate salaries;
- Maintaining equity of employees with comparable experience, performing similar duties and responsibilities within LOPD – as well as appropriate relativity of employees to the market;
- Monitoring and auditing employee compensation to ensure appropriate pay,
- Collaborating and partnering with managers and supervisors to set appropriate salaries by providing tools and resources to make pay decisions for their employees.

#### Classification and Salary Range Assignments

**Purpose of Salary Ranges:** To support effective salary decisions. LOPD has established a set of salary grades and ranges for each of its job classifications. Each classification is assigned a salary grade based on similar classifications with comparable job content as determined through the position leveling process. The salary range reflects competitive market pay value and internal relativity differences in job responsibilities and requirements.

**Salary Range Minimums, Market Policy Position (MPP), and Maximums:** Each salary range consists of a minimum, an MPP, and a maximum dollar amount.

- **Salary Range Minimums:** Employees whose qualifications and/or education and experience meet the minimum requirements for the job class should normally be paid at least the minimum of the assigned salary range.
- **Salary Range MPP:** The position in the salary range that reflects the competitive market value of an experienced and fully competent employee whose classification is assigned to that salary range. When hiring a new employee from outside of LOPD, there can be justification for paying below the MPP, until they have obtained relevant and applicable job knowledge in the LOPD environment.
- **Salary Range Maximums:** Employees should typically be paid at a level less than or equal to the maximum of the assigned salary range. Human Resources must approve salaries above the maximum of the salary range.

For Attorney classifications, a Pay Band has been established with Market Anchors based on the market value for each level of work in the Public Defender job family. A minimum and maximum value have been established for the Attorney Pay Band.

Click [here](#) to view the salary schedule which provides details about LOPD's salary grades and ranges for each job classification. Once on the website, to access the salary schedule locate the gold button that says "LOPD Salary Schedule".

## Pay Factors

When determining and setting an appropriate salary for ANY reasons as set out in other sections of this document, the following pay factors shall be taken into consideration:

- **Market Relativity**: A comparison of an employee's pay relative to the MPP or Market Anchor for their classification that can be calculated by dividing an employee's salary by the MPP or Market Anchor. This is commonly known as the comparative-ratio or compa-ratio.
- **Internal equity**: A fairness criterion that considers the relationship of one employee's salary to the salaries of other employees performing similar duties and responsibilities.
- **Work Experience or Education**: An employee's relevant work history and academic qualifications.
- **Special Qualifications**: Special qualifications or licensures needed to perform the tasks required of a classification successfully.
- **Recruitment and Retention Issues**: Issues related to hard-to-fill classifications or classifications that may warrant higher salaries than the MPP or Market Anchor, due to difficulties recruiting and/or retaining employees.
- **Budget or Funding**: Allocated funds for each classification to pay for salaries during a fiscal year.
- **Performance**: The incumbent's performance in the job compared to the performance goals as mutually agreed between the employee and their supervisor/manager.

## Hiring Salary

The hiring salary will be dependent upon the level of knowledge, education, skills, and experience that the employee being hired brings to LOPD and the classification. In addition, other factors that may be taken into consideration may include the employees' current salary and the pay levels of other employees in the classification being filled. As a general guideline, the hiring range should be between the range's minimum and MPP. The Attorney Pay Band classifications was updated in FY23 to have a min, MPP, and max amounts per attorney classification, matching the core staff salary schedule format. Human Resources will recommend the salary for appointment to ensure appropriate relativity to comparable employees.

## Promotion

A promotion is a move from one classification to another with greater job content, responsibility, and accountability than the previous classification. Promotion is achieved through the posting of the promotional position and the filling of that position assigned to the classification. Promotions are available to employees who meet the minimum qualifications of the classification. Pay movement is based on consideration of the current



salary range of the employee and the pay range of the classification to which the employee is being promoted. The only "rule" for promotion increases is that the incumbent should not be paid less than the minimum or above the maximum of the salary range of the new classification. Once that criterion is met, the following factors should be taken into consideration in determining a promotion increase:

- The level of skill of the employee being promoted.
- The amount of the increase between the salary range of the current classification and the new classification.
- The length of time between the promotion and the employee's last evaluation date timing and overall rating of the most recent performance evaluation.
- The salaries of other incumbents in the classification.
- Where in the salary range application of the guidelines will place the incumbent's salary.

Having considered the above factors, a pay increase amount should reflect appropriate placement and internal alignment.

### **In Pay Range Adjustments**

An In Pay Range Adjustment is an increase to an employee's salary within the current classification and salary range. In Pay Range Adjustments may be given to:

- Recognize substantial changes in duties within the classification;
- Acquisition and application of additional job-related qualifications, certifications or licenses;
- Establish equitable salary relationships (appropriate placement & internal alignment);
- Pay for Performance; and/or,
- Respond to labor market conditions.

The pay increase amount of the In pay range adjustment should be considered in conjunction with the information provided in this document. The adjustment **shall not** move an employee's salary above the salary range maximum; and/or create significant salary inequities.

Click on the links to review the [In Pay Range Adjustment Interpretive Memo 2021-01](#) and [Request Form](#).

### **Demotions**

A demotion is a move from one role to another which has lesser job content, responsibility and accountability than the previous position within a classification. When an employee voluntarily elects to take a demotion, it is recommended that the employee's salary be reduced by the amount of the promotional increase received when assigned into the higher level position, if the promotion/appointment occurred within the previous 12 months. Suppose the promotion occurred beyond 12 months of assignment or the employee has been in their current classification for more than 12 months. In that case, employees will be

moved back to appropriate placement in the new salary range, based on the relevancy of their qualification and experience to the classification to which they have taken a voluntary demotion. This latter provision will also apply when an employee applies for and is appointed to a classification that is at a lower salary range.

## Ongoing Accountabilities

The amount of funds available annually for salary increases will be determined through the legislative process. The amount may vary each year, dependent on the budget. LOPD Leadership will decide if alternative pay raises, such as In Pay Range Adjustments, are viable based on advice and input from Human Resources and Fiscal.

Within these approved Salary Administration guidelines, managers, supervisors, and Human Resources will be accountable for the following:

- Communicating Salary Administration guidelines to subordinate supervisors and employees to help them understand the LOPDs classification and compensation program
- Adhere to and administer LOPD pay policies
- Ensure all pay factors are taken into consideration in making pay recommendations or decisions
- Make appropriate compensation decisions
- Avoid any significant variations from one compensation recommendation or decision to another
- Ensure starting salaries are set appropriately
- Ensure promotion increase guidelines are applied consistently
- Ensure pay recommendations and decisions are sound and defensible in accordance with relevant New Mexico statutes and non-discriminatory

## 4. REMINDERS/Updates:

- 1) Although compensation is crucial for drawing and keeping talent, it is not the only essential component. Non-monetary rewards are also vital, particularly learning and development opportunities, to assist employees to advance their careers. Employees also need to have a positive outlook on their opportunities to learn and grow with the department.

## 5. FY24 COMPENSATION & CLASSIFICATION GOALS and PLANS

- A. In accordance with **Subsection D of 10.12.4.8 Pay Plan**, develop a method for communicating LOPD's Total Compensation package on a regular basis for use as a recruitment and retention tool. Also, a baseline for annual reporting going forward.
  - The Total Compensation package will show employees, and potential employees how much the LOPD is investing (salary, cash and non-cash incentives, benefits, leave accruals) in them.

Y Estimated Date of Completion: **October 15, 2023**

B. In accordance with **Subsection C of 10.12.4.11 Salary Schedules**, HR will conduct a market analysis to determine if adjusting the salary ranges for the LOPD job classifications in relation to changing economic and competitive conditions is appropriate. Changes will be made based upon the recommendation of Human Resources and following approval by the Chief Public Defender.

- Using the data collected through market analysis from FY23, LOPD will recommend to the Chief Public Defender if any of the salary ranges need to be updated based on conducting random analysis and conducting salary market surveys.
- Please note, salary range adjustments alone may not justify granting salary increases to employees, but employee increases will be determined in light of ranges existing when such salary increase recommendations are made.

Y Estimated Date of Completion: **March 1, 2024**

C. One-Time pay increases **Subsection C of 10.12.4.11 Salary Schedules**, with review of ASD Deputy, CFO and HR will explore and determine any additional pay raises that may be awarded at the end of FY24; for example, one time bonuses or pay increases.

Y Estimated Date of Completion: April 1, 2024

D. Identify and develop plan and process for review of job classifications descriptions to reflect job responsibilities.

Y Estimated Date of Completion: **May 15, 2024**

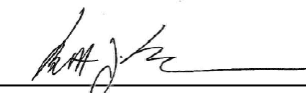
E. In accordance with **Subsection A and B of 10.12.4.13 Pay Differentials**: The Chief will continue to monitor the variable recruitment and retention (geographical) pay differential based on geographic location for effectiveness. Upon further review, the dollar amounts may be adjusted up or down based on geographic location, or certain locations could be added or removed from the program.

I acknowledge and understand that the department has recently awarded various different increases and bonuses referenced in detail on page 3. Predicting any future funding allocated by the Legislature is challenging. Therefore, the Fiscal Division and HR will carefully review any proposed pay increases before submitting them to you for a decision.

Sincerely,

Ronald Herrera,  
Director of HR  
Law Offices of the Public Defender

Approved:

  
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Bennett J. Baur, Chief Public Defender,  
Law Offices of the Public Defender

8/18/2023

\_\_\_\_\_  
Date