



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

Chief Public Defender
Bennett J. Baur

FY25 Budget Request
Legislative Finance Committee
November 15th, 2023

Presenters:

Thomas Joseph Clear III, Chair Public Defender Commission
Bennett J. Baur, Chief Public Defender

Mission Statement
*From courthouse to Roundhouse:
leading the fight for justice in New Mexico*

Annual caseload

assignments

78,493

LOPD Cases Assigned by Fiscal Year



Attorneys we have

In-house + contract

349

FY25 Budget Request seeks 30 attorney FTE and 30 core staff, investigators and social workers

Attorneys we need

for total case assignments

897+

According to ABA Workload Study of NM LOPD Jan. 2022

Budget

20.8%

Current

\$71.7_m

Ask

\$86.6_m

Vacancy rate

(as of 11/13/2023)

14% Overall

18% Attorney

10% Core Staff

FY24 Budget



- Current Year General Fund budget = \$71.7 million, including the following increases:
 - Recurring - received an additional \$6.3 million and 8 additional FTE
 - \$4 million for staff pay and additional FTE
 - \$1.9 million for contract attorney rate increases
 - \$414 thousand for expert witness cost increases
 - Nonrecurring
 - \$4 million total for this fiscal year and next for Public Attorney Fund initiatives (restricted, uses defined by law)
 - \$2.5 million in C2 funds for IT needs and attorney tools
 - \$80 thousand for services provided by LOPD and \$150 thousand for transcription services from the junior bill (SB 192)

Fy24 – What We've Done With Additional Resources



- **Built on legislative increases of 8% for career employees (including 2% specifically carved out for LOPD by the Legislature)**
 - 15.3% increase for career staff
 - 13.4% increase for probationary staff
- **All 8 new FTE added in FY24 are filled as of 11/6/2023**
 - 2 paralegals: 1 in Carlsbad, 1 in Hobbs
 - 3 attorneys: 1 in Gallup, 1 in Las Cruces, 1 Appellate
 - 1 legal associate in Aztec
 - 1 case manager for social work in Ruidoso
 - 1 IT help desk position
- **Increased contract attorney base compensation rates by 20%**
- **Onboarding new expert witnesses for trials, including social workers and forensic psychologists**

Results

- Vacancy rate has fallen to **14%**
 - **18%** attorney vacancy
 - **10%** core staff vacancy
- Increased contract attorney rates 20%
 - FY24 Q1 average statewide contract attorney FTE was stable compared to FY23's average, although 4 attorneys in critical areas are no longer working with LOPD.
- Retained a green program rating throughout FY23 in LFC's performance report cards.
- Selected as the 2023 recipient of the Clara Foltz Award from the National Legal Aid and Defense Association recognizing that LOPD exemplifies best practices, expands access to justice, and uses creative and promising new methods to improve public defense.
- LOPD is hosting Safe Surrender events – a safe and cost-effective alternative to law enforcement efforts to clear warrants. Our first Safe Surrender is December 2023.



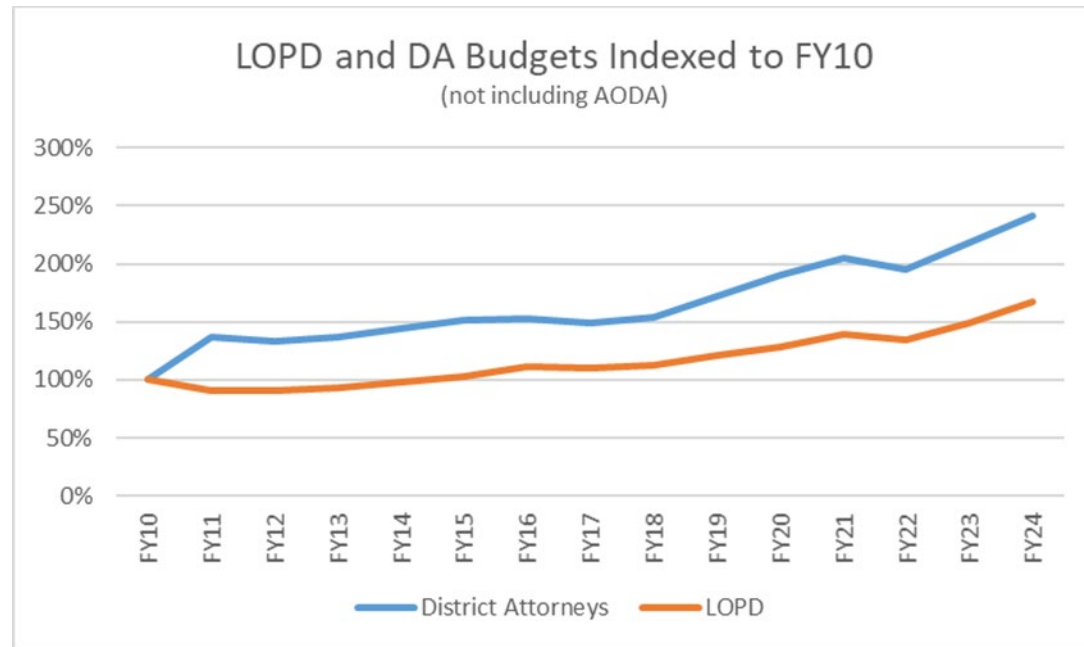
Challenges: Workload

- Initial projections indicate case assignments may grow 11% over the course of FY24 compared with FY23.
- Not only did FY23 case assignments surpass pre-pandemic levels, but felony case assignments far surpassed levels over the last six fiscal years.
 - Higher felony caseloads combined with the limited number of attorneys to handle cases is of grave concern as felony cases are more complex and require more time and resources.



Challenges: Funding parity

- LOPD remains underfunded when compared with our DA counterparts.
- When indexed to FY10, the DA budget has grown 141% while LOPD's grew 67%; less than half the growth rate of the DA budget over the last 15 years.



Challenges: Recruitment & Retention



- Rural areas remain incredibly difficult to staff
 - The attorney vacancy rate in the 5th Judicial District is 52%. These offices have been operating at this vacancy rate for approximately 9 months.
 - As of FY24 Q1:
 - Roswell office is down 6 of 9 attorneys
 - Hobbs office is down 3 of 8 attorneys
 - Carlsbad office is down 3 of 6 attorneys
- The legal landscape around us is continually shifting. For example, in the 2nd Judicial District, the DA rolled out Case Catcher which shifted our discovery process from minutes to days without any prior notice.

FY25 Budget Request



- \$86,617,100 (general fund)
- \$14.9 million, or 20.8%, increase over FY24 base budget
 - \$6.2 million for an additional 30 attorneys and 30 core staff
 - \$4.9 million for contract attorney compensation and complex case costs
 - \$2.1 million for pay equity and parity with DAs and other state attorneys
 - \$1.7 million for maintaining trial and operational needs

FY25 Budget Request

- Our budget request is well researched and founded on the recommendations of top-tier entities such as the American Bar Association, Moss Adams, and the JFA Institute.
 - Working with these partners, LOPD has laid a specific to New Mexico approach to responsibly growing staff and improving quality of representation.
 - LOPD leads the nation and the state in this type of organizational evaluation and planning and has been recognized accordingly.



FY25 Budget Request



- Our budget request reflects consistent, systemic, and recurring needs that remain under-resourced and which are directly linked to our ability to provide effective assistance of counsel.
- Our budget request allows us to build on our successes, meet our challenges, and move towards resource parity.
- Planning ahead and fiscal responsibility are key, especially when considering the state's economic outlook.
 - Public safety remains a stated priority of the committee – LOPD is integral to that priority.
 - Resource parity when compared to our judicial counterparts is critical.
 - LOPD can contribute to reducing recidivism, ACES, and generational traumas with robust resources.