

Statement of Principles of the New Mexico Public Defender Commission

The New Mexico Public Defender Commission establishes the following principles for conducting indigent defense:

1. The right to an attorney is a fundamental right as recognized by the United States Supreme Court and the New Mexico Constitution. An attorney in a criminal case is a necessity, not a luxury.
2. In order for the fundamental right to a lawyer to be realized, a lawyer must be appointed for any client who requests an attorney and cannot afford his or her own lawyer.
3. The right to counsel of indigent persons accused of crimes in New Mexico will be protected because it will be conducted in accordance with the United States and New Mexico Constitutions and the New Mexico Rules of Professional Conduct. This legal service for indigents will be commensurate with that available to non-indigents.
4. For the benefit of clients and to satisfy constitutional requirements, the Commission has adopted Performance Standards for all aspects of attorney representation including client consultation, case investigation, legal research, motions practice, trial preparation, trial skills, sentencing and appeals. These Performance Standards will be met whether the client is represented by the Law Offices of the Public Defender, contract or conflict attorneys.
5. Representation by appointed counsel will begin at the earliest possible moment in order to protect the client's fundamental right

to counsel.

6. Vertical representation, rather than horizontal representation, will be provided in all indigent defense cases.
7. All employees and contractors of the Law Offices of the Public Defender will be paid competitively with employees and contractors of other state agencies that provide legal services.
8. The Public Defender Commission will adopt its own personnel rules governing the conduct of all LOPD employees. Such rules will provide at least the same due process protections as exist under currently applicable rules of the State Personnel Office.
9. Hourly rates, not flat fees, will be paid to contract attorneys to ensure ethical representation, maintain accountability for funding, pay fairly for work done and to provide incentive to work for the benefit of the client.
10. Reasonable costs and expenses of contract counsel will be paid separately from and in addition to hourly rate fees.
11. The Public Defender Commission will adopt a ratio of attorneys to support staff that will improve the quality of representation of clients by attorneys by optimizing the work of support staff and by using limited funds efficiently.
12. A separate division within the Public Defender Department will be maintained for the administration of conflict counsel. The Commission will urge the New Mexico Legislature to create a separate agency for representation and administration of cases in which there is a conflict of interest.