

*State of New Mexico*  
*Law Offices of the Public Defender*  
*Defending Justice*



***2014 Annual Report***  
*(July 1, 2013-June 30, 2014)*

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# Mission Statement

**The Law Offices of the Public Defender strives for the pursuit of justice and the protection of our constitutional rights. Our mission is to provide exemplary, caring and professional legal services to people charged with crimes in New Mexico. We stand for equal access to quality legal representation for all which improves their lives, reduces recidivism and makes the community safer.**

# A Message from the Chief Public Defender...

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Greetings,

238 years ago the founders of this country came together to say “no more” to the tyranny of a foreign government. With the ultimate success of the revolution, the Constitution of the United States was proposed 17 years later. However, the colonies would not ratify the Constitution until the *Bill of Rights* was added to protect the citizens of this new country against the abuse of power by the government.

John Adams represented the British soldiers in the Boston Massacre well before he signed the *Declaration of Independence* and before he became the second President of the United States. Long after he had been the President he was asked what his most meaningful contribution to America was. He attributed his greatest contribution to this new country as the time he represented Captain Preston and his soldiers in the Boston Massacre. While he suffered much anxiety and experienced abusive language for doing so he stated, ***“It was, however, one of the most gallant, generous, manly and disinterested actions of my whole life, and one of the best pieces of service I ever rendered my country. Judgment of death against those soldiers would have been as foul a stain upon this country as the executions of the Quakers or witches, ancientsly.”***

In March 1963, writing for the unanimous Supreme Court in *Gideon v. Wainwright*, Justice Black held the 6<sup>th</sup> Amendment’s guarantee of counsel is a fundamental right essential to a fair trial. He wrote that “reason and reflection require us to recognize that in our adversary system of criminal justice, any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.” He further wrote that the “noble ideal” of “fair trials before impartial tribunals in which every defendant stands equal before the law ... cannot be realized if the poor man charged with a crime has to face his accusers without a lawyer to assist him.”

Thus began the need for public defenders throughout the country. The Law Offices of the Public Defender (LOPD) is a team of dedicated women and men who work together in the criminal justice system to preserve the dignity of humanity and to protect our constitutional rights especially enumerated in the *Bill of Rights* to the United States Constitution. Our committed team of professionals works hard to honor the promise of *Gideon*. What we do on a daily basis is to give life and meaning to the protections afforded all citizens by the Constitution.

In November 2012, the citizens of the State of New Mexico by a super majority voted in favor of a referendum amending the New Mexico Constitution to remove the public defender department from the Executive Branch and create an independent agency under the Judicial Branch. The referendum further created a public defender commission (Commission) to provide guidance and support for the newly created independent agency.

Pursuant to their constitutional and statutory duties, in November 2013, I was appointed by the Commission as the first Chief Public Defender under this newly declared independence. As the Chief Public Defender I am honored to implement the vision of a new beginning for the Law Offices of the Public Defender (LOPD) for the State of New Mexico. Following the enumerated duties of both the Commission and the Chief, the office has been undergoing a transformation where for too long the proper needs of the citizens of this state have been neglected in the area of representation for the indigent in criminal matters.

Our team of 226 defense lawyers is supported by a mixture of 180 Social Workers, Investigators, Paralegals, Clerical, and Administrative staff. Our team also includes approximately 160 contract attorneys

in private practice providing Public Defender services in jurisdictions where the LOPD does not have an office and providing representation where the office has a legal conflict of interest. Representation of clients includes misdemeanor, juvenile, and felony cases, and appeals through the entire appellate process including before the Supreme Court or post-conviction proceedings, if necessary. The LOPD team includes specialized assistance for clients through our statewide programs such as the Mental Health, Post-Conviction and Capital Crimes Units.

### **Areas of Focus in FY2014:**

**Professionalism and efficiency** – With the newly formed independent office, the main focus in fiscal year 2014 has been on the transformation of the LOPD into an effective team and determining the level of appropriate staffing needed to properly represent clients throughout the State of New Mexico as required under the United States and New Mexico constitutions.

An assessment was completed to determine the appropriate levels of staffing to achieve the level of professionalism and efficiency which *Gideon* promises. In past years, in order to represent clients in court, some vacancies in support staff were reclassified to attorney positions. This not only rendered attorneys inefficient but also created a heavier burden on our support staff. With less support, attorneys were required to do more of the work more effectively handled by others. In many instances, lawyers are required to transcribe their own recordings of interviews or court proceedings. When requests are submitted to investigators, paralegals, social workers or clerical staff, because of the number of requests for assistance, completion of the tasks takes longer. With longer completion times for support tasks, the lawyers have difficulty getting properly prepared for the necessary litigation in court. When the lawyers are not properly prepared for court, delays in the justice system occur. With these delays a further increase in the backlog of the overly burdened justice system occurs.

**Performance Standards** – The Public Defender Commission adopted Performance Standards for public defenders and contract counsel at the end of FY2014. These standards reflect the care with which lawyers who represent indigent clients on criminal matters should act. The promise of *Gideon* requires a real defense, not merely a perfunctory appearance.

**Increased Compensation for Contract Counsel** – Likewise, the Public Defender Commission determined that the flat rate compensation historically used by the LOPD is inadequate to protect the rights of indigent clients because it creates perverse economic incentives for attorneys to carry too many cases in order to make a living. The LOPD and the Commission agreed to seek legislative support to significantly reform this system in FY2016.

**Mental Health Unit** - On June 24, 2014, the Bernalillo County Commissioners voted to approve \$1.1 million dollars for the purpose of establishing a supportive housing program for 75 individuals with severe mental illness. The Mental Health Unit successfully lobbied Bernalillo County to have 30 of the 75 beds set aside for inmates being released from the Metropolitan Detention Center. This dramatic achievement gives LOPD social workers an opportunity to address housing and mental health services for incarcerated individuals, giving these individuals at least a chance to avoid further incarceration and receive meaningful treatment for the conditions which gave rise to the initial incarceration.

**Juvenile Representation** – In FY2014, the LOPD began the process to reform the way it represents juvenile defendants by planning for the creation of a statewide juvenile unit to represent juvenile defendant's charged with the most serious crimes and children that are subject to the most severe penalties. The unit would represent children in court, would serve to work with local communities in accessing resources for rehabilitation, and would assist all offices in training in juvenile representation. The need for this is obvious. In preparation for this proposal, CYFD records were obtained showing the numbers of youth committed to CYFD custody and from which jurisdictions those youths were adjudicated. The numbers are remarkable.

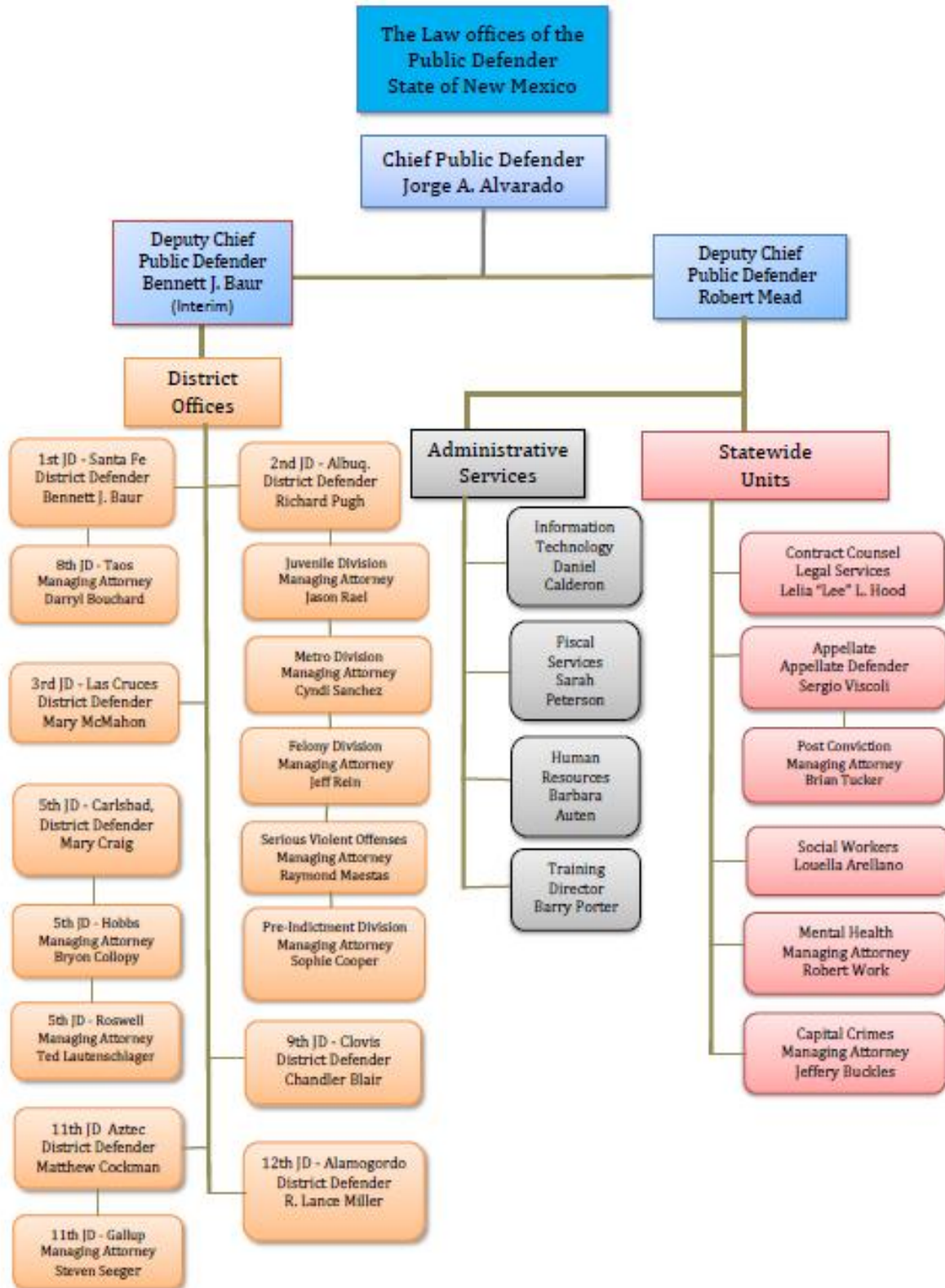
In Fiscal Year 2013, Bernalillo County incarcerated 63 children. With a population of 673,000, that averages to an approximate commitment rate of one child for every 10,000 people. Compare that to Chavez County where there were 18 commitments. With a population of 65,000 people, that translates into an average of one commitment for every 3.5 thousand people. Lea County incarcerates one child for every 4.5 thousand. The reason for the disparity can be attributed to a number of things – one factor is that in Bernalillo County the LOPD has a dedicated juvenile unit where attorneys specialize in juvenile defense and where a social worker is dedicated to assisting in obtaining treatment and creating treatment plans. It is the mission of the LOPD to allow children in delinquency proceedings the same access to representation no matter where they reside within the state. Because the representation of juvenile offenders is an increasingly specialized field, a dedicated statewide unit would better enable children to access the services that can aid in rehabilitation, to avoid the cost of unnecessarily incarcerating children that could be rehabilitated, would ultimately result in lowering recidivism and help keep children out of the adult criminal system.

**Information Technology** - The LOPD IT Unit closed out FY2014 with significant changes to the IT infrastructure. The Unit planned, designed, and installed a new MPLS data network statewide. Furthermore, they implemented a statewide VoIP solution utilizing SIP trunks, which converged the LOPD telephones with the data network. The Unit also planned, designed, implemented, and migrated LOPD users to a new in-house Exchange Server 2013 messaging solution. At the end of FY2014, the Unit began the final migration phase of the Case Defendant Management System (CDMS) from the Department of Information Technology server center to the LOPD in-house data center. All Windows XP workstations statewide were replenished with new Windows 7 workstations. These actions concluded a three year ground-up rebuild of the LOPD IT infrastructure, including data circuits, email, web and application hosting, desktop telephone and over 400 Windows 7/8 workstation upgrades.

These successes are only the start of the Public Defender Commission and LOPD's campaign to revitalize public defense in New Mexico.

Sincerely,  
Jorge A. Alvarado  
Chief Public Defender

# Organizational Chart – July 1, 2014



## Performance Measures

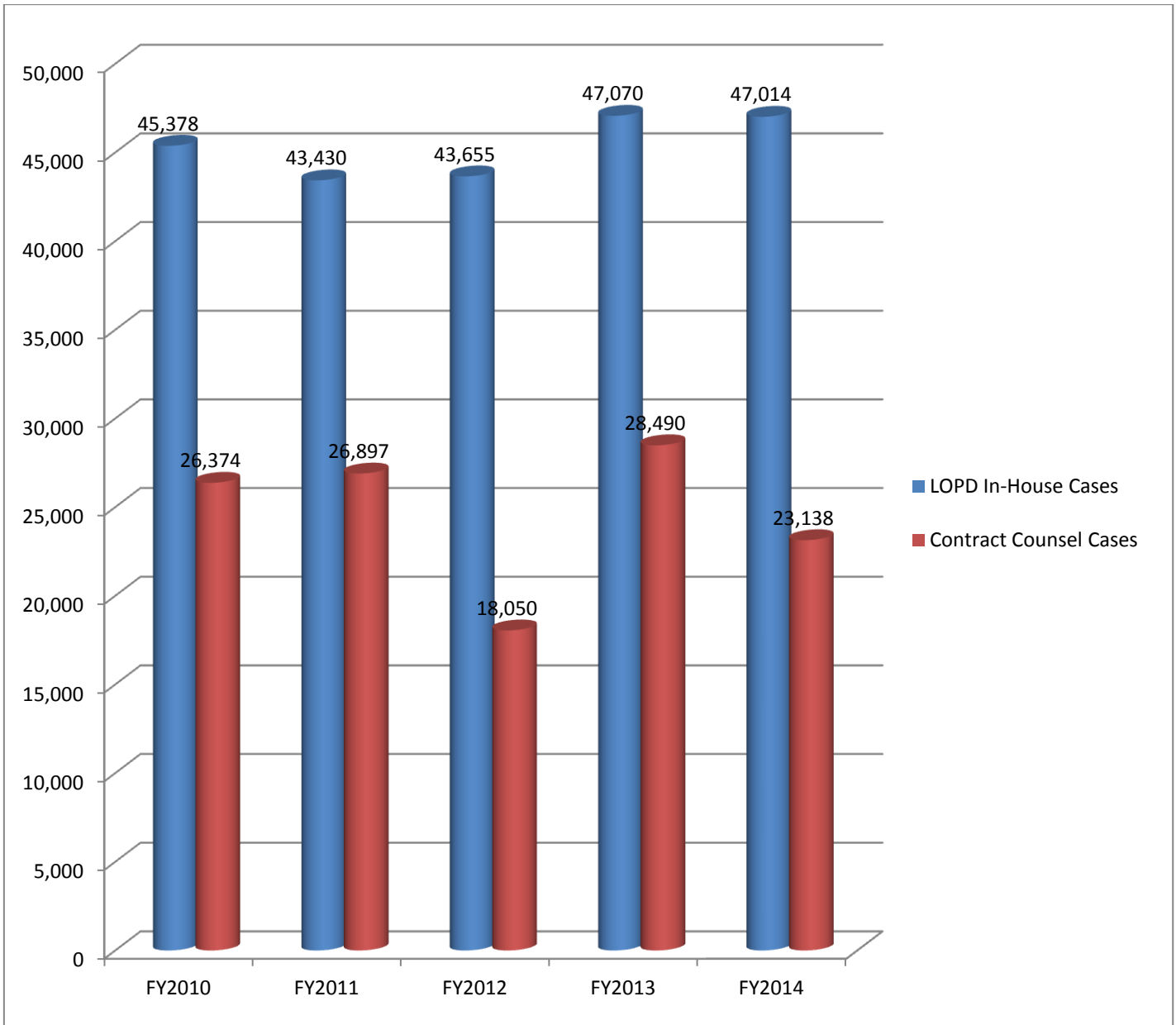
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<b>Measure</b>	<b>FY2013 Target</b>	<b>FY2013 Actual</b>	<b>FY2014 Target</b>	<b>FY2014 Actual</b>	<b>FY2015 Proposed Target</b>
Number of alternative sentencing treatment placement for felony and juvenile clients	4,500	8,726	10,000	3102	10,000
Percentage of felony cases resulting in a reduction of the original charges	51%	52.3%	65%	87.60%	65%
Percentage of juvenile cases resulting in a reduction of the original charges	65%	76.9%	65%	12.4%	65%
Percentage of misdemeanor cases resulting in a reduction of the original charges	65%	82.5%	65%	19.4%	65%
Percentage of cases in which application fees were collected	40%	35.6%	45%	38.44%	45%



# Case Statistics

## LOPD In-House Cases v. Contract Counsel Cases FY2010 to FY2014



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## District Office Operations

At the trial level, the LOPD provides direct representation for adults and juveniles through its seven district offices and six satellite offices located in key population and caseload centers. The district and satellite offices are supervised by District Defenders who are directly appointed by the Chief Public Defender. Supervisory attorneys manage the six satellite offices in Carlsbad, Carrizozo, Gallup, Portales, Roswell, and Taos. Each district office is responsible for staff hiring, office systems training, local supervision, case assignments, courtroom coverage, and the legal representation of clients. Here are some of FY2014 the accomplishments for each office:

### **First Judicial District Office** – Santa Fe & Taos (located in the 8<sup>th</sup> Judicial District)

- LOPD employees spearheaded the local Alliance to reduce the recidivism of mentally ill individuals by the creation of a community-based Crisis Response team, reform of the treatment guardian process, and the swift provision of mental health and medical services to those in the criminal justice system
- LOPD attorneys staff three Drug Courts, a Mental Health Court, the County Corrections Advisory Committee, and several community panels
- Attorneys and staff have taken to trial several serious felony cases, obtaining acquittals or very favorable verdicts in almost every one

### **Second Judicial District Office** – Albuquerque

- Public defenders are now vertically assigned to felony cases providing representation prior to indictment or preliminary hearing
- Metropolitan Court public defenders now represent clients in a vertical fashion in most cases, where one attorney will represent each client rather than having attorneys assigned to particular courtrooms so that client might have four or five different attorneys in a case
- Albuquerque office staff have greatly assisted attorneys despite extremely low staff to attorney ratios
- Juvenile Division has begun advocating for clients in special education disciplinary hearings that are held in conjunction with active cases to help prevent expulsion from school

### **Third Judicial District Office** – Las Cruces

- LOPD attorneys have targeted prosecutorial claims of dangerousness in cases with clients who have mental illnesses resulting in many clients who do not have to endure long-term stays at the New Mexico Behavioral Health Institute
- Challenging claims of dangerousness in competency cases results in significant tax payer savings and addresses discriminatory attitudes about mental illness

- Collaboration with District Attorney's office to address truancy issues through the use of a diversion program
- Collaboration with the Dona Ana County Detention Center to reduce incarceration time
- Partnered with the courts to maintain the juvenile drug court program
- Advocacy on behalf of juveniles charged as youthful offenders and immigrant clients

**Fifth Judicial District Office** – Carlsbad, Hobbs, Roswell

- Carlsbad's office is fully staffed for the first time since 2007
- Of the 82 cases that the Roswell office took to trial, only 16 resulted in a verdict of guilty as charged
- In Hobbs, they have nearly a 100% success rate in obtaining conditional discharges for first time drug offenses

**Ninth Judicial District Office** – Clovis, Portales

- A new LOPD office has opened in Portales with two attorneys and one staff
- The new office improves efficiency by reducing travel time to court in Portales and is more accessible to clients from Portales
- Collaborations with the Juvenile Justice Action Committee and Teen Court have been fruitful in developing non-traditional resolutions in juvenile cases and improving early intervention

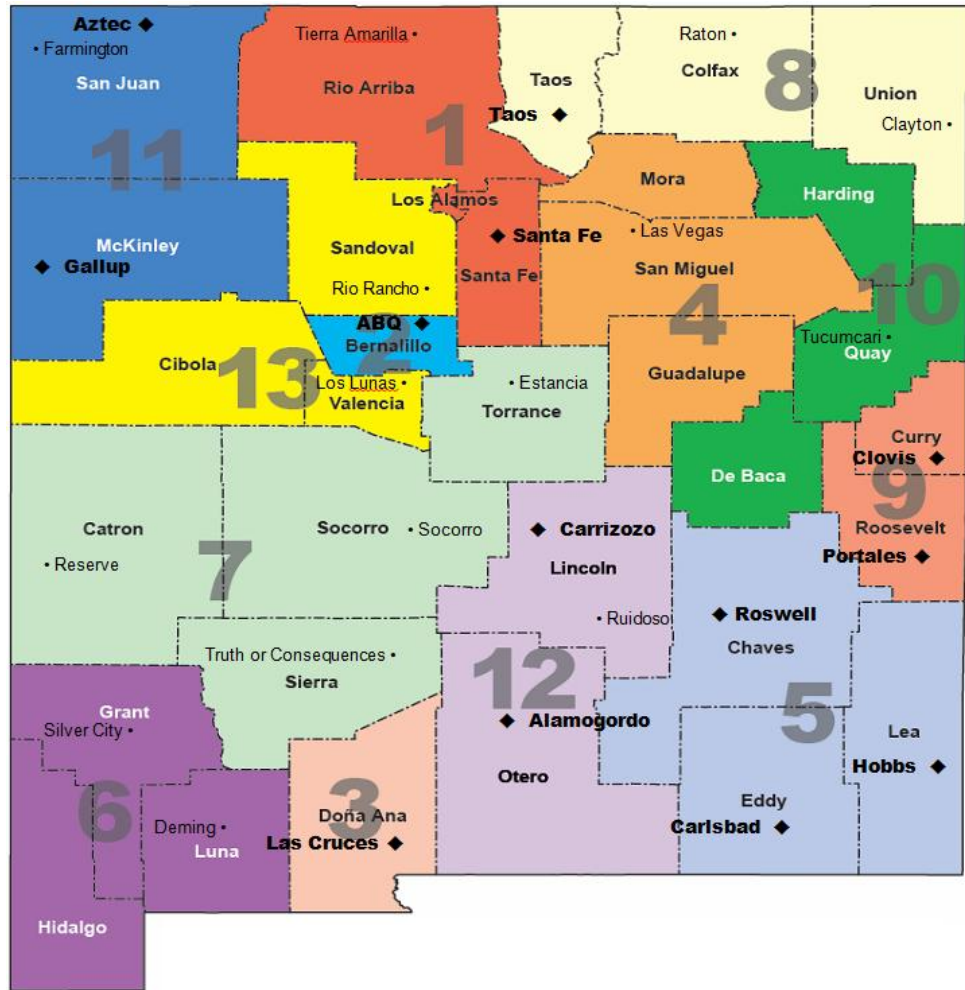
**Eleventh Judicial District Office** – Aztec, Gallup

- The Gallup office has successfully moved into their new offices at the Gallup Magistrate Court complex
- The Aztec office had a successful case in the New Mexico Court of Appeals that is currently before the New Mexico Supreme Court challenging the actions of a state police officer who took a tribal member off of the reservation to obtain alcohol breath scores and brought charges in Magistrate Court
- The Aztec office has trained a number of young attorneys who are successfully taking cases to trial and winning acquittals

**Twelfth Judicial District Office** - Alamogordo, Carrizozo

- A new LOPD office is opening in Carrizozo
- The new office improves efficiency by greatly reducing the daily need to travel between Carrizozo and Alamogordo thus providing better service in Carrizozo and Ruidoso
- The attorneys have won a number of difficult felony cases by zealous advocacy

# District Map



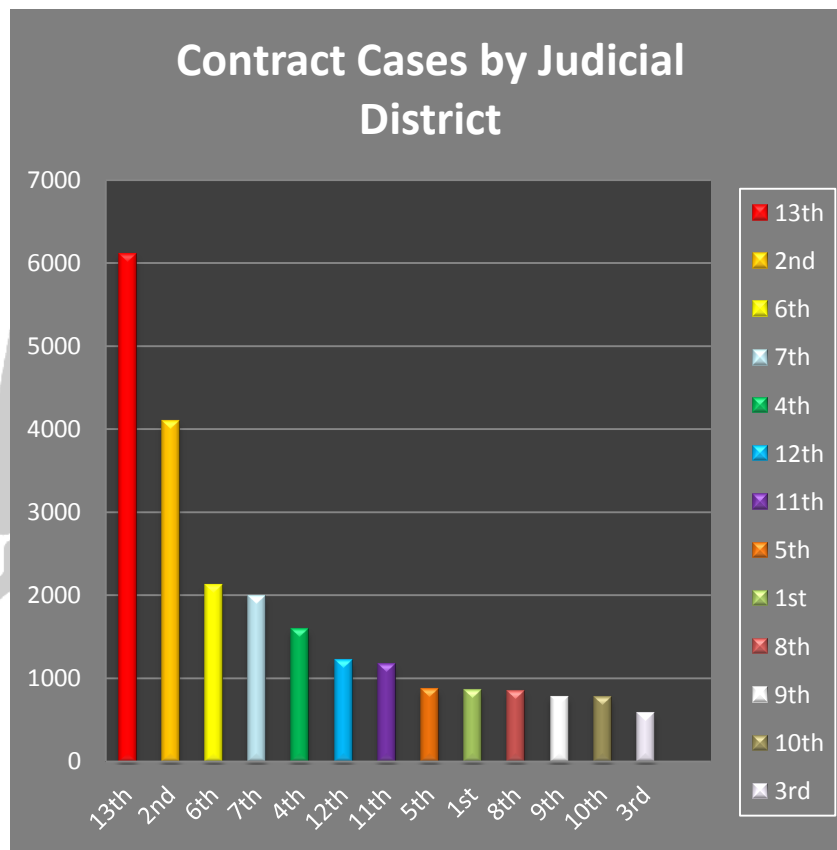
## LOPD Offices Main Telephone Numbers

Santa Fe & Administration	(505) 395-2888
Albuquerque	(505) 369-3600
Alamogordo	(575) 551-7209
Aztec	(505) 386-4060
Carlsbad	(575) 887-0224
Clovis	(575) 219-6323
Gallup	(505) 726-4534
Hobbs	(575) 263-2272
Las Cruces	(575) 541-3193
Roswell	(575) 208-1655
Taos	(575) 613-1364

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## Contract Counsel Legal Services

LOPD Contract Attorneys appeared in 23,138 cases in FY2014, representing indigent persons across New Mexico. Felony cases accounted for 11,557; misdemeanors for 9,722; juvenile cases for 1,611; appeals for 63; potential life sentence cases for 63; and, habeas corpus for 55 cases. The 13<sup>th</sup>, 2<sup>nd</sup>, and 6<sup>th</sup> Judicial Districts have the largest contract counsel caseloads:



In FY2014, the Contract Counsel Legal Services division began assessing its systems for supervision, evaluation and monitoring of representation of contract counsel clients. Meetings were held with contractors in the metropolitan area corridor to evaluate current practices and expectations. A review of various systems for monitoring and evaluation was undertaken. As a first step, a Request for Assistance Form for clients to fill out was provided to all adult and juvenile jails and detention facilities throughout the State. A uniform process was implemented for documenting, investigating and responding to Requests for Assistance.

To further improve the quality of services provided, The Public Defender Commission adopted Performance Standards for Criminal Defense Representation.

During FY2014, small contracts were awarded to accommodate areas where 2012 RFP Contractors ceased to accept assignment of cases.

