

The New Mexico Public Defender Commission

RESOLUTION TO ENSURE EFFECTIVE ASSISTANCE OF COUNSEL AT ALL CRITICAL STAGES OF CRIMINAL PROCEEDINGS

Whereas the right to effective assistance of counsel in all criminal prosecutions is guaranteed by the Sixth Amendment to the United States Constitution and Article II, Section 14 of the New Mexico Constitution;

Whereas the right to counsel is guaranteed at all critical stages of the proceedings, and

Whereas critical stage representation includes the first appearance before a judicial officer;

Whereas representation at first appearances is legally assured by:

1. The United States Constitution (See *Rothgery v. Gillespie County Texas*, 554 U.S. 191 (2008));
2. The New Mexico Constitution;
3. The New Mexico Public Defender Act, N.M.S.A. 1978 § 31-15-10(C);
4. The Statement of Principles of the New Mexico Public Defender Commission; and
5. The Performance Standards of the Commission and the Law Offices of the Public Defender.

Whereas aside from the legal right, there are important practical effects of providing representation at first appearances for defendants who may, without counsel, be harmed by their lack of release from custody or by their making uninformed decisions concerning their case or their legal situation;

Whereas the Law Offices of the Public Defender is currently unable to provide representation at first appearances due to insufficient staffing and inadequate funding;

IT IS THEREFORE RESOLVED THAT:

Counsel at first appearances is required for indigent defendants in all courts of New Mexico.

The New Mexico Public Defender Commission will seek funding sufficient to ensure that indigent defendants will be provided counsel at first appearances.

The New Mexico Public Defender commission will provide support and guidance to the Chief Public Defender in order to fulfill the Constitutional and statutory duties to provide representation to individuals who qualify for public defender representation at all critical stages of a criminal proceeding in every judicial district.

The New Mexico Public Defender Commission will alert all state magistrate and district courts and all other appropriate public entities of this resolution.



The New Mexico Public Defender Commission
Michael L. Stout, Chair

March 3, 2017