



# Legal Update (Biennial In-Service)

New Mexico Law Enforcement Academy Board

NM220007

## **OBJECTIVES**

- To understand recent trends affecting law enforcement in New Mexico.
- To understand recent cases affecting law enforcement in In New Mexico.
- To become familiar with recent legislation affecting law enforcement in NM.

## **GOALS**

- Know what ending qualified immunity means for police officers in NM.
- Know new proposals for police working with mentally ill and homeless.
- Explain how proactive policing may soon be changing for officers in NM.
- Explain how police should handle panhandling in New Mexico.
- Describe how changes in DNA technology can assist law enforcement in NM.
- Describe how automatic license plate readers can assist law enforcement in NM.
- Know arguments for and against legalization of marijuana in NM.
- Know how DWI forfeiture laws have changed in NM.
- Explain the difference between stop and frisk in New York and New Mexico.
- Explain limits on asking questions on a vehicle stop in New Mexico.
- Describe how to avoid a false confession in New Mexico.
- Describe changes in community caretaker exception in recent years in New Mexico.

## **SOURCES**

- State and federal case law.
- Local and national news media, including google and YouTube.
- Books and news articles on policing.
- New Mexico Statutes Annotated.

**ESTIMATED TIME**     Two hours.

## **PREPARED BY**

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## INTRODUCTION

If you went to the academy more than five years ago, you're in for a surprise. Indeed, just in the last ten years a lot has changed.

This outline – 2022-2023 – will note new legal cases and trends. One reason for noting trends is to give officers the context – the background or big picture – for many of the legal cases.

The start of the 2020s for policing was dramatic. In May of 2020, in the midst of COVID, came the extraordinary case of George Floyd.

## TABLE OF CONTENTS

- Part 1 - New cases and trends for field officers
- Part 2 - Changes in NM policing following George Floyd
- Part 3 - Consequences of the Anti-Policing movement
- Part 4 – New strategies to reduce crime in NM
- Part 5 – Legislation in NM
- Part 6 - New legal cases in NM

### NOTE:

Throughout the outline one will see “News Item.” This has the title of the story and where it came from.

NM has some good news. 2021 saw a huge increase in revenue. Billions of federal dollars (COVID relief, infrastructure bill) came or are coming to NM. Also, NM became the 2<sup>nd</sup> largest oil producing state.

News item: NM breaks oil and gas production records in 2020

Production for oil and gas up 10%, natural gas production up 7%.  
Ruidoso News, March 30, 2021.

### Note:

This will mean more money for law enforcement, education, etc.

## **PART ONE: NEW CASES AND TRENDS FOR FIELD OFFICERS**

Many people believe law enforcement has become more intrusive in the last fifty years. They – and the courts - are concerned about officers violating constitutional rights.

That will become evident as we review NM cases.

State courts can give more rights than the US Supreme Court and the NM courts often do so.

### **STOPPING PEOPLE ON THE STREET TO ASK FOR ID**

In Santa Fe, three women were standing on the road, next to the State Pen, looking at horses. NMSP demanded ID but one woman refused. Handcuffed for about 45 minutes. No reasonable suspicion. She sued and got \$300,000. Santa Fe New Mexican, September 21, 2020.

### **STOPPING PEOPLE ON THE STREET TO CHECK FOR WARRANTS**

In Silver City, Defendant was walking home from work late at night. No suspicion of criminal activity. Officer shined his spotlight and asked for name and DOB. Said it was department policy to stop all people late at night to get a data base.

Defendant had a warrant. During search, found meth. Court of Appeals said this was a detention. Evidence suppressed. State v. Ramey (2020).

Note:

One can always ask for ID. However, unless there is reasonable suspicion, one cannot demand ID. When we get to the Homeless section, we will mention asking for ID again.

## STOP AND FRISK

### Using Stop & Frisk as a way to control crime . . .

Stop and Frisk, aggressively used in New York City, led many to conclude it led to unjustified pat downs of “minorities.” It was controversial and the courts ordered a stop to it.

The trend across the country is not to use stop & frisk as a tool to look for weapons or reduce crime.

Suggestions or recommendations:

- A stop & frisk is permitted when there is reasonable suspicion a person is armed and dangerous, a threat to an officer.
- The expression “Officer Safety” will not justify a stop and frisk; an officer will need to articulate or give reasons why the stop and frisk was done.
- A frisk is done on the outer clothing to look for weapons.
- If during a pat down one finds drugs, and it is immediately apparent that it is drugs, the drugs will usually be admissible.
- Stop and frisk should not be used to control or reduce crime.

## The controversy on “proactive policing”

A number of years ago New York City (NYC) started proactive policing on a grand scale. Based upon “broken windows,” the idea was to target misdemeanors as much as possible. There was a lot of emphasis on stats (called CompStat).

The heart of the program was “Stop-question-frisk.” Crime went down dramatically. Thousands of lives were saved. In other words, there was a positive side to it.

But then the complaints poured in. People felt targeted, especially young Black males.

It led to great resentment against law enforcement. After George Floyd, this became very apparent.

Mayor Bloomberg, in a public apology, admitted NYPD had been profiling young Black males.

[Recommended video: YouTube: “This Week’s ‘Stop & Frisk’ backlash”](#)

“Proactive policing” may work in the short term but the long-term costs of alienating segments of the population (poor, racial, etc.) has been high.

Many departments are taking another look at proactive policing.

News item: Arrests for low-level crimes plummeting

Major police departments across the country are arresting far fewer people for minor crimes. In New York City, arrests are down 50%. For black men, it's the lowest since 1990. For black men in St. Louis from 2015-2017, misdemeanor arrests down 80%. Wall Street Journal, October 7, 2019.

**Note:**

Of the eighteen cities DOJ was monitoring in 2020, Albuquerque was the only city found not to have profiling or abuse of stop & frisk.

### **Whatever happened to forfeiture?**

When the DOJ looked at Ferguson, Missouri (hands up, don't shoot) they found the police had become a revenue machine. If law enforcement looks like a revenue machine, resentment grows . . .

A number of years ago Albuquerque had a red-light camera system. The fines were high. When the mayor bragged about revenues raised, it was dismantled.

In Las Cruces, the City Attorney bragged about the amount of revenue raised from forfeitures. State legislature quickly passed a law that a DWI vehicle can only be seized (and sold) after conviction.

News item: Fed judge rules Albuquerque forfeiture unconstitutional

Mother an innocent owner: loaned son vehicle, he was later arrested for DWI, vehicle seized. Judge said law enforcement cannot benefit financially from seizures. KOAT, July 31, 2018.

News item: Court ruling will impact DWI laws in Albuquerque, Santa Fe

Court of Appeals said a state law that says a vehicle can only be seized upon conviction applies to Albuquerque and Santa Fe (which relied upon an ordinance). Since 2009, APD seized over 5,600 vehicles and made over \$7 million dollars. KOAT, December 16, 2018. Forfeiture still exists in NM but is used much less often.

### **ASKING QUESTIONS OF A DRIVER ON A VEHICLE STOP**

**Note:**

**In many states and under federal law, one can ask any question on a traffic stop as long as it doesn't prolong the stop. Not so in NM. For over twenty years there have been guidelines on what kind of questions one can ask.**

Facts:

Officer in San Juan County stopped Defendant's vehicle for littering. While doing a warrants check, he asked Defendant if he had any guns, alcohol, or illegal drugs in the vehicle.

Defendant gave consent to search his vehicle and the officer found drugs. Court of Appeals held the questions went beyond the scope of investigation. Evidence suppressed. State v. Taylor (1999).

Facts:

A Ruidoso Downs officer stopped a vehicle for a possible forgery. A passenger in the front seat was the suspect. The officer found drugs on him.

He asked the driver two questions: Is there anything in the vehicle I need to know about? Mind if I search your vehicle? Consent was given and the officer found meth.



These two questions went all the way to the Supreme Court. They felt the questions were appropriate: the officer had just found drugs on the passenger and officer wanted to search the vehicle, not the driver. Evidence was admitted. State v. Funderburg (2008).

A NMSP officer on 1-40 near Grants saw Defendant's vehicle pass two semi-trucks. Driver briefly touched yellow line and was stopped. Officer, looking for drugs, got consent to search. Meth found.

Court of Appeals said briefly touching the left passing lane, especially when passing two semis, was not reasonable suspicion. Trafficking charges dismissed. State v. Valenzuela (2017).

Facts:

In Las Cruces, an officer stopped Defendant for running a stop sign. "Where are you coming from?" "A friend's house." "What his name?" "Josh Dimas." And then the officer remembered : Dimas, the convicted drug dealer!

Officer asked to search his vehicle and to do a pat down. Found meth. Court of Appeals held questions were not reasonably related to the stop. Evidence (the meth) suppressed. State v. Tuton (2020).

In 2021 Supreme Court of NM said a tail-light that isn't in perfect working order is not reasonable suspicion to stop a vehicle. State v. Farish (2021).

## The controversy about asking questions on a traffic stop

Two questions on traffic stops in New Mexico attract a lot of attention: “Do you have drugs in your vehicle?” and “Don’t mind if I search your car, do you?”

As much as anyone, officers know how bad illegal drugs are for New Mexico. Officers who ask these questions want to do the right thing.

In New Mexico the courts will look carefully at these questions. Some people resent these questions and others believe it is used to profile certain groups of people.

### Recommendation:

- Do not use traffic stops (unless there is a reason to do so) to look for drugs.
- If an officer asks about something unrelated to the purpose of a stop, the officer should be able to articulate reasons why he or she asked those questions.
- Supervisors who see a number of vehicle search cases being dismissed may want to consider training.

## VEHICLE SEARCHES - CONSENT

News item: New limits on police searches

Police no longer conduct voluntary searches of vehicles without written permission. City wants to reduce racial disparities. Asheville (North Carolina) Citizen Times, October 7, 2019.

Note: NM as of now does not require written permission for consent.

## **ASKING QUESTIONS OF PASSENGERS TO CHECK FOR WARRANTS**

Over fifteen years ago, NM became one of the first states to curtail officers asking passengers for ID.

Facts:

In Chaves County, an officer stopped a vehicle for a faulty license plate light. He asked the passenger for ID and found he had a warrant. During the pat down the officer found meth. Court of Appeals suppressed evidence (the meth). State v. Affsprung (2004).

### **The Controversy on Asking Passengers for ID**

For many years, officers would ask everyone in a vehicle for ID. A passenger had a warrant. Another warrant, another arrest! In the short term, a good tool for law enforcement.

The great majority of people, of course, do not have warrants. In the long-term, looking at the big picture, law enforcement lost.

There may be reasons to ask a passenger for ID; perhaps an officer sees something (example: a passenger appears to be hiding something) or is a witness (example: DWI).

The support of citizens is essential. For most traffic stops, officers no longer ask passengers for ID.

### **VEHICLE STOP – OPENING A DOOR**

**Note:**

**In the following two cases there was a violation of constitutional rights.**

In Taos County, a NMSP officer stopped Defendant for speeding. He was standing by the window which wasn't rolled all the way down. Within three seconds, he opened the door to speak to the driver. He noticed the odor of alcohol which led to a DWI arrest.

Court of Appeals held opening the door was a violation of the Fourth Amendment. Evidence suppressed. State v. Martinez (2019).

In Albuquerque, an officer saw three people in a parked vehicle. The motor wasn't running. He opened the door and saw drugs. Court of Appeals said no reasonable suspicion to open the door. Evidence suppressed. State v. Murry (2014).

## **PART TWO: CHANGES IN NM POLICING FOLLOWING GEORGE FLOYD**

### **The extraordinary impact of George Floyd**

One of the most chilling videos ever, watching the arrest of George Floyd in Minneapolis, Minnesota.

For law enforcement, even though not one officer in America supported what Derek Chauvin did, the reaction was extraordinary.

There was much criticism of law enforcement. "Defund the Police" became popular although by 2021 that began to change. The desire to improve law enforcement, however, continues.

#### News item: Poll finds most Americans want police reform

Majority of people (June 18-22, 2020) believe change must be made to law enforcement. Want police accountability. Also limit the scope of policing to more serious crimes. USA Today, June 29, 2020.

## Ending Qualified immunity

**Note: This was probably the biggest change for NM law enforcement.**

Qualified immunity was created by the US Supreme Court about thirty years ago. The idea was to make it more difficult to sue officers since officers have to make split second decisions. Think of it this way:

Total immunity: Judges and legislators have this (can't be sued).

Qualified immunity: "In-between" immunity.

No immunity: Much easier to sue.

After George Floyd, NM became one of the first states (along with Colorado) to end qualified immunity.

News item: Governor MLG signs Civil Rights Act into Law

The Governor said, "New Mexicans are guaranteed certain rights by our state constitution . . . but when violations occur, we as Americans know that the victims tend to be people of color." KOB, April 7, 2021. NMSA 1978, Section 41-4A-4.

**Note:**

**This makes it easier to sue police officers in NM and means knowing legal is more important than ever.**

**One provision of the NM law is that an agency, not the officer, would be financially liable.**

### The Controversy on Qualified Immunity

People supporting ending qualified immunity felt too often constitutional rights were being violated and officers were not being held accountable.

Opponents to ending qualified immunity felt it would lead to a major expense for government agencies (and another burden for taxpayers).

Also, at the discretion of the court, attorney would get attorney fees. Some people felt this would encourage lawsuits.

### **Body-worn cameras required for all NM law enforcement officers**

**Note: Another major change for NM law enforcement.**

A special session of the legislature was held within a month of the death of George Floyd. A law was passed requiring all law enforcement agencies in New Mexico to have cameras.

### **“Bystander liability” and “Duty to Intervene”**

**Note: Another major change for NM law enforcement.**

George Floyd was handcuffed, lying face down, and not resisting. One officer had his knee on his neck while two others held him down. A fourth officer did crowd control.

All four officers were charged with homicide. If an officer does something wrong and others do not intervene, increasingly all will be charged. Many officers were not aware of a “duty to intervene.”

New Mexico . . .

Hidden away in Senate Bill 8 (the law that requires body cameras in NM) was the following paragraph:

“If any officer is convicted of or pleads guilty or no contest to a crime involving the unlawful use of force (battery) or threatened use of physical force (assault) or a crime involving the failure to intervene in

the use of unlawful force, the LEA Board shall permanently revoke the police officer's certification." NMSA 1978, Section 29-7-15.

Colorado . . .

Requires an officer to intervene when another officer is using unlawful physical force and requires the intervening officer to file a report regarding the incident.

If the officer fails to intervene, the Board is mandated (required) to decertify the officer. The failure to intervene will be a class (1) misdemeanor and the officer may be charged with a higher level crime when necessary.

News item: Detroit Chief - officers to intervene against fellow cops.

Previously, officers would merely report police misconduct. Now, officers must intervene. Violations can lead to termination. Detroit News, July 30, 2020.

### **No-knock search warrants**

There was no need to legislation here. Since the early 1990's, state courts have prohibited no-knock search warrants in NM.

### **End of choke holds**

Across the country, as a result of George Floyd, laws were passed eliminating choke holds.

New Mexico has not taught choke holds for years. It surprised many people when a Las Cruces police officer in 2020 chased someone and said, "I'm going to choke you out." The suspect died.

The officer was terminated and charged with second degree murder. Las Cruces paid the family \$6.5 million dollars.

Legislation was introduced in 2021 to eliminate chokeholds in NM. Perhaps because it was combined with a bigger bill, it didn't pass.

**Recommendation:**

**Agencies in NM should make it clear that chokeholds are not acceptable.**

### **Charging police officers with criminal offenses**

As recently as five or ten years ago, officers were seldom prosecuted for criminal offenses.

Officers using force while doing their jobs (riot control, etc.) were rarely charged criminally.

A trend to prosecute officers began shortly before George Floyd (May, 2020) but has accelerated since then.

What one hears now is "we need to hold officers accountable." Some examples in New Mexico:

News item: AG charges former Farmington Police Officer

A school resource officer who "roughed up" an 11-year-old girl is now facing multiple counts of battery and a felony child abuse charge. KOB, August 26, 2020.

**Note:**

**He eventually pled guilty to both charges.**

News item: Rio Arriba settles teen's tasing for \$1.3 million dollars

The teen was a special needs student. The deputy was indicted for child abuse and false imprisonment. KOB, Feb 28, 2020.



## Police Misconduct

In Brady v. Maryland (1965) the US Supreme Court said the prosecution must turn over all evidence that might exonerate or aid the defendant.

In Giglio v. United States (1972), the US Supreme Court said the prosecution must disclose to the defense attorney information that might impeach the prosecution witnesses.

This includes, among other things, past misconduct of bias, use of force or truthfulness, and criminal charges.

Until recently, defense attorneys would ask for this information on a case-by-case basis. The DA's Office in Bernalillo County became the first office in the country to change this. A questionnaire was sent to officers. Information is posted on a public website.

News item: Bernalillo County DA tracking police misconduct

The DA's Office now sends what is called a Giglio (named for a Supreme Court case) questionnaire to officers asking about integrity. The information is then posted on the DA website (District Attorney – Bernalillo County) under the tab: Transparency and accountability.

The DA said this will help hold officers accountable. KRQE, October 29, 2021.

News item: APD has 61 officers investigating other officers

At APD, Crimes against Children has six officers, the Gang unit has six officers, and Narcotics has 5 officers. Meanwhile, **sixty-one (61) officers** investigate other officers. KOAT, August 13, 2019.

### **The homeless, the mentally ill, drug users and pan-handling**

Big changes have been happening in these categories. We will discuss each category separately.

## THE HOMELESS

Homelessness first became a big problem on the West Coast and then came to NM.

Homelessness is increasing dramatically . . .

News item: Report: Homeless Population in NM up 27%

NM homelessness rate on rise, highest in the nation. Between 2018 and 2019 homelessness in NM up 27%; in Albuquerque, approximately 15%. For increase in homeless and chronic homeless (more than a year), NM led the nation. KOAT, January 13, 2020.

In Albuquerque, the estimated homeless population is between two to three thousand.

### APD and the Homeless

**Note: Albuquerque is likely to be a template for NM.**

The homeless would take over a park. Neighbors would ask APD to “clear the park.”

APD officers would go into a park and ask everyone for an ID. Many of the homeless had warrants and were arrested.

It was a consensual encounter and legal. On the positive side, the park was cleared. In fact, the homeless just moved down the road.

But there was a negative side. Many homeless became fearful or angry when officers approached. Encounters often became confrontational.

Officers, simply by showing up, increased the chance of a tragedy happening.

APD officers no longer go into a park to ask for ID. It may be legal but too often it leads to a confrontation.

**Recommendation:**

As a general practice, officers should not ask for ID unless there is a reason to do so.

To ask for ID to check for warrants often leads to an unnecessary confrontation.

In just a few years, a major shift has occurred in what people think about the homeless. Many believe that homelessness should be treated as a social problem, not a police problem.

If a homeless person decides to camp out on private property, that can be dealt with as a trespass issue. Otherwise, officers need to be very careful on how they approach this.

If people complain about the homeless problem, it's helpful to mention this is a "social" problem, not a police problem. However, making this a "social" problem does not guarantee success.

**Will the "social approach" work?**

There is no guarantee that the "social approach" will work. On the West Coast, homelessness is increasing.

One observer noted that there is a difference between "homeless people" and "street people." Many "street people" do not want to go to shelters.

In Albuquerque they spent approximately six million dollars to build "Tiny Homes" for the homeless. Thirty units were built but only five units are in use.

Indeed, in front of the “Tiny Homes” are dozens of homeless tents!

#### VIDEO

“Albuquerque tiny home village struggles to fill vacancies as homeless encampments surge.” KRQE, December 8, 2021.

#### THE MENTALLY ILL

How officers deal with the mentally ill has changed dramatically in just a few years.

In Albuquerque, the DOJ determined that the majority of people killed by APD were mentally ill (or homeless).

The response throughout New Mexico was to train officers to work better with the mentally ill. A step forward but many felt more needed to be done.

For a solution, some have looked to Europe. Police shootings are much lower in Europe than in the United States.

One reason is that in Europe the people most in contact with the homeless and mentally ill are social workers or mental health workers. In the United States, by default, when a call comes in regarding someone mentally ill or homeless, law enforcement is called.

#### Note:

Between 2015 and 2019, NM had the highest per capita rate of people killed by police. Source: Legislative analysis for SB 8 (body cameras).

**Another new trend: Having social workers handle mental health calls**

News item: [NYC to test no-police mental crisis response in Harlem](#)

Officers will respond if there is a weapon or “imminent risk of harm.” Fire Department expressed support. AP, February 24, 2021.

**NOTE:**

In some cities, when there is a mental illness situation, a firefighter is sent with a police officer assisting. This is a recent trend seen across the country.

News item: Dispatchers in New Orleans and mental health workers

The concept is simple: “When your house is on fire, you get the first department, when there is a violent incident you get the police department, if you’re having a heart attack, you get EMS.”

“What we don’t have, and where the system is falling apart, is when it is an emergency outside of these specific types.” Mental health workers are now an option. Police1, August 24, 2021.

Doing something different in New Mexico . . .

In 2020, Albuquerque Police created a new command, the Albuquerque Community Safety Department. When possible, unarmed social workers will handle calls with the mentally ill, homeless, and some non-violent crimes.

News item: Albuquerque takes police out of mental health calls

President Biden praised Albuquerque for taking the lead on a change in policing. For some mental health and homeless calls, social workers will be dispatched instead. Washington Post, October 8, 2021.

News item: Santa Fe announces new Alternative Response Team

For mental illness or behavioral health calls, will have an officer, a paramedic, and a social worker. The social worker will help connect the person with needed resources. KRQE, April 20, 2021.

News item: Santa Fe to expand Alternative Response Teams

It's run by the Santa Fe department. Responds to low-level 911 calls and has helped reduce police overload. Most calls, 37%, for disorderly conduct, 30% for welfare checks. So far, an officer has not been assigned to the team. Santa Fe New Mexican, December 21, 2021.

## **DRUG USERS**

**Note: Another new trend for law enforcement.**

The following statistics may explain why the focus on drugs is changing from punitive to legalization.

Drug overdose deaths in the US have gone up dramatically:

In 1970: 7,200 (When the War on Drugs began)

In 2019: 70,000 overdose deaths

In 2020: 100,000 overdose deaths

**Note:**

In NM, the courts, as we have seen, have made it more difficult to do drug interdiction. Officers on traffic stop are limited in what kind of questions they can ask.

Across the country, especially on the West Coast, there has been a trend to legalize drugs or make them a misdemeanor.

We will look at marijuana first, then hard drugs . . .

## **Marijuana**

In 2021, NM became the 18<sup>th</sup> state to legalize marijuana. One adult in a residence can have six plants, two adults twelve plants.

Allows two ounces of marijuana for those twenty-one and older for personal use. An ounce of marijuana fills a sandwich bag and can typically be rolled into nearly 30 joints or cigarettes.

April, 2022 is the target date for the recreational marijuana industry to be up and running.

The odor of marijuana is not reasonable suspicion to stop, detain, or search a person.

Cannot search a vehicle based upon odor of marijuana since the odor of marijuana is no longer evidence of a crime. DWI is an exception.

Past convictions of marijuana possession will be expunged (erased). No limit for # of licenses to sell marijuana. Tax rate will eventually be 20%.

A bill to add public safety to marijuana legislation did not pass. It would have set legal standard for marijuana, similar to .08 for DWI. It would have allowed a blood draw if there was probable cause.

**Will legalizing marijuana put the illegal dealers out of business?**

The record from other states has not been very promising.

News item: Getting worse, not better: illegal pot booming

Despite legalization, illegal pot is booming in California. National Guard will go after illegal pot farms. New York Times, April, 2019.

News item: Illegal marijuana taking valuable water in the West

Throughout the West, illegal growers are taking water in uncontrollable amounts. Since legalization, illegal marijuana farms have gone up dramatically.

Marijuana has been grown for decades in southern Oregon but the recent explosion of huge marijuana grows has shocked residents. Associated Press, September 17, 2021.

Colorado has also seen a big increase in illegal marijuana.

### **Marijuana in NM and reporting of arrest and citations . . .**

NM may be unique in having the following requirement:

Within 60 days of each fiscal year, every police and sheriff agency **shall** report the total number of arrests, citations, and penalty assessments for marijuana to DPS to include . . .the race and ethnicity of a person. NMSA 1978, Section 26-2C-33.

Each year DPS will put the totals on their website.

### **Hard drugs**

In NM, first opioids, then meth, now fentanyl . . .

News item: National database reveals the flow of pain pills in NM

DEA tracked the path of every pain pill sold between 2006 and 2012 in NM. **More than 500 million pills were supplied to NM.**

During those seven years, one pharmacy in Espanola (population 10,000) received **more than 6.1 million pain pills.** KRQE, July 26, 2020.

And then meth became #1 for illegal drugs . . .

News item: Prescription drugs deaths down, street drug deaths up

**605 overdose deaths in NM in 2019.** Meth – 44%, Fentanyl – 21%, others – 35%. KRQE, November 5, 2020.

News item: Albuquerque police shootings of people on meth high



In 2010 36% of people killed by APD had meth in their system; by 2017 **it was 83%, the highest in the nation**. Special prosecutor Michael Cox noted bean bags and tasers often do not work on people on meth. KOAT, August 6, 2019.

**NOTE: Meth may account for the high number of police shootings in NM. This is stunning.**

For now, fentanyl is #1 for illegal drugs in NM . . .

2020 was a shocker: overdose deaths soared to over 750 people. Fentanyl passed up meth to be the biggest killer.

News item: Drug overdose deaths soar among Black Americans

The opioid epidemic started with rural whites but in 2020 swept the Black community. Overdose death rate for Blacks is three or four times more than for whites. Main reason is fentanyl. Manufactured in Wuhan, China, it goes to Mexico and then USA. KOB, June 24, 2021.

What is NM doing to reduce hard drugs?

In 2017 New Mexico became the first state to require all officers to carry naloxone when agency funding became available.

News item: New law aims to reduce opioid overdose rate

NM now requires opioid prescriptions lasting five days or more to come with a 2<sup>nd</sup> prescription for naloxone. Naloxone is available at pharmacies without prescriptions. KRQE, June 19, 2019.

**Note:**

**Thanks to naloxone, heroin overdose went down. The NM Board of Pharmacy has been very helpful.**

A needle exchange program . . .

News item: NM's needle exchange program in 2018

The NM needle exchange program provided **9.8 million syringes** in 2018. Run by NM Dept. of Health, allows people to exchange dirty needles for sterile needles. 90% collection rate for needles. KOB, September 20, 2019.

**NOTE: The population of NM is 2.1 million people.**

Drug overdose and arrest                      NMSA 1978, Section 30-31-27.1

- A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession if the evidence was gained as a result of medical attention
- A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession if the evidence was gained as a result of the overdose and the need for medical assistance.

**Note: NM was the first state to have this kind of law. Officers at the scene of an overdose gather the drugs but do not charge the person.**

There is a trend across the country to make hard drugs legal or reduce them from a felony to a misdemeanor.

California and Oregon and illegal drugs . . .

In 2014, California reduced possession of drugs (heroin, cocaine, LSD, etc.) from a felony to a misdemeanor.

News item: Oregon 1<sup>st</sup> state to decriminalize possession of drugs

In 2020, Oregon voted to decriminalize street drugs (heroin, cocaine, meth, etc.). Offenders would face a civil citation, similar to a traffic ticket. Maximum \$100 fine. Albuquerque Journal, Feb 2, 2021.

And in New Mexico . . .

News item: New DA drops felony drug possession to misdemeanors

The DA for the First Judicial District (Santa Fe, etc.) is reducing felony drug possession charges to misdemeanors. They make up a substantial % of the caseload. Will focus on other serious felonies. Northern New Mexico Independent, January 12, 2021.

## **PANHANDLING**

**Another new trend:** Is Panhandling coming to your town?

News item: Fed Judge strikes down Albuquerque's panhandling law

Panhandling is here to stay. ACLU said ruling was a victory for free speech. Albuquerque Journal, July 19, 2019.

Apparently not everyone at APD got the word and officers continued to arrest panhandlers. ACLU sued and won another settlement.

In 2021, the federal Court of Appeals upheld the District Court.

## **Another trend in NM: JUVENILES**

In the past few years there has been a trend in the juvenile justice system to avoid incarcerating juveniles. One result:

A longer trip to a juvenile detention center . . .

News item: Rio Arriba, Los Alamos counties send youths to San Juan

There are six juvenile centers in NM and two may be closing. Santa Fe County will no longer accept youths out of the county and may

close in the future. Fewer juveniles being detained; 40% of beds empty in 2019. Farmington Daily Times, February, 2020.

**NOTE:**

In parts of NM, it sometimes takes a drive of two hours to put a juvenile into custody.

**SOME CHANGES HAPPENING IN THE REST OF THE USA. . .**

**Ban the use of tear gas**

A judge in Seattle issued a ban against the use of tear gas by riot police.

In Philadelphia, the Chief said tear gas would no longer be used. An officer who used it on a protestor was suspended for 30 days. His Deputy Chief was demoted. ABC News, June 26, 2020.

**Precision Immobilization Technique aka the “PIT” maneuver.**

News item: Deadly Force behind the wheel

Police vehicles send a vehicle into a spin, ending the pursuit. Nine have already died in 2020, thirty since 2016, including passengers and bystanders. Movement to eliminate “the PIT.” Washington Post, August 24, 2020.

**NOTE:**

In Los Angeles it’s banned after 35 mph, North Carolina at 55 mph. Albuquerque allows over 35 mph if deadly force is warranted. At slow speeds it doesn’t cause fatalities.

**Will name tags for officers be a thing of the past?**

News item: Buffalo Police now allows officers to wear a badge #

Instead of a name tag, officers can now wear badge numbers. This is to prevent harassment of police officers. WGRZ, September 24, 2020.

## **Will traffic stops be handled differently in the future?**

In Berkeley, California the city council voted to have unarmed civilians rather than officers conduct traffic stops.

News item: [Minneapolis moves toward unarmed traffic enforcement](#)

The Traffic Safety Bureau would be separate from the Minneapolis Police Department. [Police One](#), April 19, 2021.

### **PART THREE: CONSEQUENCES OF THE ANTI-POLICING MOVEMENT**

#### **First Consequence: Dramatic Increase in Crime**

Across the country, police are backing off from “pro-active” policing. In many large cities there has been a dramatic increase in crime. Homicides have broken records in a number of cities.

[Recommended video: Chicago police activity declines as murders spike, data shows. CBS – YouTube.](#)

[An officer in the video notes that as officers became more concerned about possible disciplinary action, “proactive” policing went down.](#)

#### **Second Consequence: Officers retiring in record numbers**

Officers in NM and the rest of the country are leaving or retiring in incredible numbers. Recruiting is becoming more difficult.

APD normally loses sixty officers a year. In late 2021, the APOA President reported over 130 officers had left.

News item: [Chicago cops leaving at “unheard of” twice the usual rate](#)

“If they have the ability to leave, there is no incentive to stay.”  
[Chicago Sun-Times](#), August 17, 2020.

News item: New York Police Retirements surge

A jump of 50% over the previous year. So many retirements there is a backlog in paperwork. Politico New York, August 17, 2020.

Hundreds of officers have left the Portland (Oregon) Police Dept. One said, “The only difference between Portland PD and the Titanic is that the Titanic had desk chairs and a band.”

**Third Consequence:** Dramatic increase in gun sales

News item: Gun sales up nearly 72% over last year

Nearly five million Americans purchased a firearm for the first time in 2020. 40% of buyers were women, 58% were Black men and women. Washington Times, August 26, 2020.

**Fourth Consequence:** Having second thoughts . . .

Within a year, people who called for abolishing or defunding the police were having second thoughts.

#### **PART FOUR: NEW STRATEGIES TO REDUCE CRIME IN NM**

Topics:

- DWI
- Traffic – Running License Plates.
- Working with federal agents to reduce crime.
- NM using technology to reduce crime.
- Looking at the NM Court system

## STRATEGY: DWI, A SUCCESS STORY

### INTRODUCTION

Time for some good news: NM is no longer number one for DWI fatalities; indeed, NM is no longer in the top twenty.

In the 1980's NM was number one in the country for vehicular homicide. **Nearly four hundred people** were killed by drunk drivers each year.

This went on year after year, with no end in sight. And then things started coming together.

How did it happen? Answer: Leadership +strategy + vision.

#### Legislation . . .

Previously, all DWI convictions were misdemeanors. Now it's a felony after three convictions. Breath score, once .10, was reduced to .08. Serving alcohol went from a misdemeanor to a felony.

But it was the field officers who made a difference. They saw DWI as a major challenge and knew their efforts would save lives.

#### A success story . . .

Their efforts paid off. Once nearly four hundred a year, the number of people killed by drunk drivers fell to one hundred a year.

Thousands of families have not had to hear that knock on the door at night, to see an officer with a death notification.

## **STRATEGY: RUNNING PLATES, A SUCCESS STORY**

What is it like to be number one in the country for auto theft? If you were curious, until recently, you went to Albuquerque, NM. Fortunately, new case law helped change things.

How bad was it?

### **Auto theft at the University of New Mexico**

News item: UNM No. 1 in stolen autos

More cars were stolen at UNM each year than any other college campus (out of 11,250) in the United States and it wasn't even close. Albuquerque Journal, July 8, 2018.

### **Auto theft in Albuquerque Metro**

News item: Albuquerque Metro again ranked #1 in auto thefts

Ten thousand vehicles! That's 27 vehicles a day in Albuquerque and surrounding counties. Albuquerque Journal, July 14, 2018.

And then things began to change. . .

## **NEW LEGAL CASES, THEN A STRATEGY**

### **Running license plates**

Before 2010, it was "hit or miss" on running plates in New Mexico. It depended upon which part of the state you were in or what judge you were in front of.

Defense attorneys had two powerful arguments:



- “My client has an “expectation of privacy” in his or her license plate.” (not true)
- “The officer needs to verify that the driver of the vehicle is the owner of the vehicle.” (not true)

**New cases since 2010 have been supportive of law enforcement.**

**2010** – Albuquerque

An Albuquerque police officer ran the plate of a vehicle in front of him. Approaching the vehicle, he realized (from previous encounters) the driver was not the owner of the vehicle.

Court of Appeals held it’s reasonable to conclude a driver of a vehicle is the owner. There was reasonable suspicion to stop the vehicle. State v. Candelaria.

**2013** – San Juan County (Farmington)

Officer “ran” a license plate of a vehicle which indicated the owner had a revoked driver’s license. The officer stopped the vehicle without making an effort to visually observe the driver prior to the stop. The driver was DWI.

Court of Appeals, relying upon the state constitution which gives more rights to citizens, held the notice of revocation was reasonable suspicion for the stop. State v. Hicks.

**2016** – San Juan County (Farmington)

NMSP stopped a vehicle when a license plate came back “insurance unknown.” Testimony was given that approximately 90 percent of “unknown” returns do not have insurance.

Supreme Court, noting the percentage, said “unknown” is reasonable suspicion to make a stop. State v. Yazzie.

Driver’s license suspended. In 2020, US Supreme Court held that was reasonable suspicion to stop a vehicle. Kansas v. Glover (2020).

Note:

- There is no expectation of privacy in a license plate.
- A stolen license plate, no insurance, or insurance unknown, gives an officer reasonable suspicion to stop a vehicle.
- An auto thief has no expectation of privacy in a stolen vehicle. Byrd v. US (2018).

In January of 2018, APD put together a strategy to reduce crime. It involved running license plates to target auto theft and bait cars. Primary partners were BCSO and NMSP.

Within a year Albuquerque saw success . . .

News item: Auto theft falls in Albuquerque Metro

For auto theft, Albuquerque in 2015 was #2 in the country. For the next three years (2016-2018) Albuquerque was #1.

In 2017 almost 10,000 (9,989) vehicles were stolen. By the end of 2018, the year APD began running license plates, it was down nearly one third (7,146) stolen vehicles. In 2019, another decline, to 6399 vehicles. That’s a 36% decrease in two years!

Other crimes also went down in 2018. Robbery down 30%, Residential Burglary down 16%. Having a strategy made a major difference. ABQReports.com, July 29, 2020.

### Lessons learned:

Targeting auto theft (one of the few areas where police can be proactive) through traffic stops led to a major decrease in auto theft and other crimes.

### NOTE:

Agencies should consider license plate readers (LPR's.) They can read dozens of plates within a minute.

A valuable tool but we cannot become too zealous . . .

### News item: Who's Watching you Now?

In Albuquerque, thousands of license plates were photographed, stamped with time and location, and sent to a federal database. Within 0.017 seconds, computers determine whether the plate belongs to a stolen car or if the owner has an arrest warrant or is a missing person.

Previously, the information was stored for six months. After complaints about privacy, APD reduced the time for storage from six months **to 14 days**. Albuquerque Journal, August 25, 2013.

### CONCLUSION

For the struggling citizens of Albuquerque, the APD auto theft strategy was a welcome success.

### **STRATEGY: WORKING WITH FEDERAL AGENTS TO REDUCE CRIME**

Many officers in NM believe the federal system works but the state system has problems.

Not just in NM but across the country, federal agents have been providing more help for local law enforcement.

News item: NM DA gets grant for prosecutor to target gun crimes

Federal government is providing a \$278,000 grant to hire a full-time local prosecutor to try firearms cases in federal court. It will go to the 13th Judicial District which covers Cibola, Sandoval & Valencia. Associated Press, October 24, 2020.

In 2021, the DA for Bernalillo stated that over five hundred (500) cases have been referred to the US Attorney's office.

### **STRATEGY: NM USING TECHNOLOGY TO MOVE AHEAD**

DNA testing . . .

News item: New DNA facial testing aids police in Albuquerque

One drop of blood and new DNA technology created an image of what a suspect might look like. It led APD to arrest Justin Hanson, involved in a brutal beating. KRQE, July 25, 2017.

**Note:**

**Justin Hanson pled to attempted murder and aggravated burglary. In 2018, he was sentenced to eighteen years.**

News item: Genealogy used to make first arrest of its kind in NM

Matched DNA taken after a crime to DNA submitted by relatives. Cold case, four years old. KOAT, January 16, 2020.

News item: Albuquerque man arrested in connection with cold case

Law enforcement used family databases and genealogy to connect Defendant's DNA to a 1997 rape case. KOB, December 21, 2021.

News item: How to save lives with DNA testing

In Virginia Sheriff Harding (Albemarle County) worked with the Innocence Project **to add serious misdemeanors** for DNA testing.

Liberals and Conservatives (Andrew Cuomo – New York, Scott Walker – Wisconsin) support more DNA testing. [Wall Street Journal](#), August 2, 2017.

News item: Nation's 1<sup>st</sup> Rapid DNA rolls out in Florida

It's being used at a detention facility. DNA is taken from a subject and electronically submitted to the FBI CODIS (Combined DNA Index System) to see if DNA is connected to an unsolved crime anywhere in the nation.

Suspects not released until DNA search results come back. [WUSF \(University of South Florida\) News](#), February 27, 2020.

Suggestions and recommendations:

Many times a suspect is released while awaiting DNA testing. With a rapid DNA machine, results can be returned in less than two hours.

New Mexico may want to consider recent advances in DNA testing and [legislation to add serious misdemeanors for DNA testing](#).

DNA Identification Act

Court of Appeals held DNA is similar to fingerprinting and constitutional. Samples are for identification purposes only and do not reveal genetic or medical tests. [State v. Blea](#) (2018).

New drone technology . . .

News item: Drones increasingly being used for public safety

Experts say drones will likely be used by every law enforcement agency within a few years. [Las Vegas \(Nevada\) Review Journal](#), September, 2018.

News item: Drone locates missing hunter, 92

A hunter was lost in a heavily wooded area in Virginia. Search & Rescue deployed a drone and found him within 20 minutes. The drone is the first in Virginia, the sixth in the nation.

The drone has an antenna under the Project Lifesaver program, designed to locate people with medical conditions that may cause them to wander. Participants wear a wristband that emits a locating signal that the drone can pick up. Albuquerque Journal, December 19, 2017.

News item: Aurora looks at buying drones for police department

Emergency officers recently used more than 80 people to look for a missing man. Police said a drone would have been very helpful. The Aurora (Illinois) Beacon-News, October 12, 2018.

News item: More law enforcement agencies using drones

Number of law enforcement agencies using drones has doubled since 2016.

Police and fire departments continue to find new uses for drones. Examples: photos of vehicle crash scenes, map crime scenes, officer safety. Associated Press (AP), May 28, 2018.

### Facial recognition technology . . .

At first it was hailed as a new, great crime-fighting tool. Many cities rebelled, however, saying it is too intrusive.

News item: Facial recognition technology leads to arrest at ABQ store

Suspect, a serial shoplifter, had been given a criminal trespass notice by Albertson's. He entered store, was identified by technology, and arrested for criminal trespass. KRQE, February 26, 2020.

News item: NM Law Enforcement suspended from using technology

Amazon said NM law enforcement cannot use its facial technology for at least one year. Only two agencies, APD and Las Cruces PD, signed up for it. [KRQE](#), June 13, 2020.

**Recommendation:**

Microsoft and IBM also put things on hold. NM needs to see what policies and recommendations other states come up with.

Detecting gun shots . . .

News item: [New technology helps police arrest Albuquerque woman](#)

Technology uses an acoustic sensor that identifies and reports gunshots within seconds of shots being fire. Called ShotSpotter. [KRQE](#), October 26, 2020.

New technology on the border . . .

News item: [Vehicle Scanning technology at the border](#)

Border agents now scan 2% of passenger vehicles, 16% of commercial vehicles. With new technology, this will go up dramatically. [CBS4- El Paso](#), August 29, 2019.

**Note:**

Video on YouTube: [Vehicle scanning technology at the border is about to ruin the drug trade.](#)

**STRATEGY: LOOKING AT THE NM COURT SYSTEM . . .**

A major frustration for officers in New Mexico is the inefficiency of the criminal justice system. New Mexico is one of few states where there is an elaborate pretrial interview process for misdemeanors, where MVD hearings turn into mini-trials, and officers prosecute cases.

Using a Preliminary Hearing instead of a Grand Jury

News item: Court plans cuts to Grand Jury System

Bernalillo County will use fewer Grand Juries and more preliminary hearings.

Five of NM's 13 judicial districts do not use a Grand Jury. Judges and Public Defenders favor a preliminary hearing, saying there is more transparency. District Attorney believes more cases will be lost. Albuquerque Journal, July 28, 2018.

An idea working well elsewhere . . .

News item: It can take months for DAs to bring charges

NM Constitution requires a Grand Jury or Preliminary Hearing to determine if there is probable cause for a felony case to go to trial.

Fourteen states (including Arizona, California, and Washington) use an Informational Process. Paperwork is given to a Judge to approve. KOAT, July 25, 2019.

Suggestions and recommendations:

No more Grand Juries? No more Preliminary Hearings? NM may want to consider a different way of taking felony cases to trial.

Officers prosecuting misdemeanor cases . . .

New Mexico is one of the few states where officers, not attorneys, prosecute misdemeanor cases.

In New Mexico, with the exception of jury trials, DWI, and Domestic Violence, officers prosecute misdemeanor cases.

Pretrial interviews . . .

New Mexico requires prosecution witnesses be made available for pretrial interviews in misdemeanor cases.

Bernalillo County Raul Torrez noted only 5 to 10 states require pretrial interviews. Albuquerque Journal, January 28, 2018.



## A criminal complaint . . .

### Two for one: A criminal complaint form and a Statement of PC Form

A person is taken to jail. Is it really necessary to fill out a criminal complaint and Statement of Probable Cause? For nearly forty years officers in Bernalillo County have put probable cause in the criminal complaint and use just one form.

#### Note:

The Statement of Probable Cause form notes it is not necessary to use it if a criminal complaint has been used. Many believe the Statement of Probable Cause (for adults) should be eliminated.

Some things that are being talked about:

- Use an Informational Process rather than a Grand Jury or Preliminary Hearing.
- If possible, have attorneys prosecute misdemeanor cases, not police officers.
- Misdemeanor pretrial interviews can be done in the hallway as was done for many years in New Mexico.
- With the criminal complaint and statement of probable cause forms, use the criminal complaint form only.

POSSIBLE REFORM: IS IT BAIL REFORM OR IS IT CATCH & RELEASE?

This is an issue of great interest to law enforcement. It went into effect July 1, 2017.

### **Argument in support of bail reform amendment . . .**

Under the old system, rich people who committed violent crimes could bond out while poor people who committed non-violent crimes would stay in jail.

### **Argument in support of repeal of bail reform amendment . . .**

Some people feel too many offenders are being released. Many officers report arresting the same offender numerous times.

### **How an agency can be proactive . . .**

There are three main ways for a law enforcement agency to be proactive: (1) target auto theft (recommend automatic license plate readers), (2) target repeat offenders (recommend working closely with federal agencies), and (2) target drug dealers.

## **PART FIVE: RECENT LEGISLATION IN NEW MEXICO**

In even-numbered years, the session is thirty days long and devoted to budget issues. In odd-numbered years it is sixty days long.

We're including legislation for the last five years to make officers aware of recent legislation that has an impact on law enforcement.

### **2021 LEGISLATURE - SPECIAL SESSION**

#### **Legalization of Marijuana**

In April, 2021, NM became the 18<sup>th</sup> state (HB 2) to legalize marijuana.

### **2021 LEGISLATURE (60 day session)**

- **HB 4.** No more qualified immunity. Makes it easier to sue. Provides for award of litigation costs and attorney fees to a prevailing party. Agency, not the officer, will be liable.
- **HB255.** Liquor reform. Allows restaurants to deliver alcoholic drinks with food. Makes liquor licenses more affordable. Would allow a \$200,000 tax deduction over 4 years to liquor license

holders and waives future annual license fees. Prohibits sale of miniatures for off-site consumption. Lifts restrictions on selling alcohol on Sunday.

### 2020 Legislature – Special June session

It occurred within weeks of the death of George Floyd, leading to “police reform” bills.

SB8 – required all officers in NM to have body cameras. It was unfunded. Also calls for a duty to intervene.

### 2020 LEGISLATURE (30 day session) PASSED

- SB 5. Extreme Risk Firearms Protection Act. Allows for court-ordered seizure of guns from individuals deemed an imminent danger to themselves or others. Only law enforcement officers can file the petition. Court can order seizure of the person’s firearms for up to 10 days until a hearing can be held.

#### News item: NM Red Flag gun law seldom used

Since becoming law effective May, 2020, only four petitions have been filed. One order was rescinded. KOB, 9 Feb 2021.

- HB 184. Law Enforcement Protection Fund. Rather than a three tier system, all departments (including tribal) will get \$45,000. The amount for each officer went from \$600 to \$1,000. Two million dollars for NMSP to pay officers to assist other departments. Also funds for community policing grants. Effective July 1, 2022.

Note:

A major increase in funding for NM law enforcement, the first since 2002. LEPF is funded through fees attached to insurance policies, not the general fund. If there is a shortfall in fees, statute has language to adjust distributions.

- SB 64. No more secret settlements. A lawsuit involving a state agency that is settled is now public record.
- Prohibits non-disclosure agreements in sexual harassment cases.

2019 LEGISLATURE (60 day session)

PASSED

- SB 8. Firearm Sale Background check. Requires a background check when conducting sales of a firearm.
- SB 20. Change of Gender Identity on Birth Certificate. Makes it easier to change sex designation on birth certificates.
- SB 76. Prohibits coyote killing contests.
- SB 96. Conviction information on Job Applications. Prohibits private employer from inquiring about an applicant's conviction on the initial job application.
- SB 107. Electronic Evidence of Motorists' Insurance. Permits evidence in print or accessible through a portable electronic device as acceptable proof of financial responsibility.
- SB 149. New name: Restores Alcohol and Gaming Division to its previous name of Alcoholic Beverage Control Division.
- SB 204. Medical Cannabis in Schools. Decriminalizes possession or use of medical cannabis in or on a school bus or school grounds. School boards will set rules.

- SB 328. Orders of Protection and Firearm Ownership. Requires court to enter an order of protection in domestic abuse cases, ordering restrained party to turn over firearms.
- SB 517. DWI with Minor in Vehicle. “Minor” is younger than thirteen years of age. This is a misdemeanor.
- HB 56. Excludes Prostitution as a delinquent act. Amends the delinquency act to exclude prostitution as a delinquent act.
- HB 129. Armed School Security Personnel. Allows retired officers and contract security personnel to be armed on school premises.
- HB 151. Liquor deliveries by licensed minor. Amends Liquor Control Act to allow minors who have a Commercial Driver’s License (CDL) to deliver packaged alcoholic beverages.
- HB 230. Child Abuse Reporting and Safe Care Plans. Amends the Abuse and Neglect Act to prohibit a report of child abuse based solely on a finding that a pregnant woman is using drugs.
- HB 237. Extends University Police Officers Authority Boundaries. Extends authority to include public streets and highways that are immediately adjacent to a campus.
- HB 312. Seizure and disposition of forfeited property. For forfeitures under local law, requires conviction by a criminal court. Forfeitures under local law must follow the same rules as forfeitures under state law. (Main impact is DWI forfeiture).
- HB 342. Criminal Justice Reforms. Eyewitness identification requirements to include polices and training.
- HB 631. Use of flashing lights by Recovery Vehicles. Prohibits recovery or repair vehicles from displaying flashing lights unless stopped on a roadway.
- HB 370. Criminal Record Expungement Act. May expunge arrest records and public records in case of identity theft or wrongful arrest, indictment or charge upon dismissal without conviction. Also expungement for non-violent felonies and misdemeanors upon completion of sentence and payment of fines.

- HB 581. Hemp Manufacturing Act. Sets up a program to regulate manufacturing hemp. Hemp is similar to marijuana.

2018 LEGISLATURE (30 day session)

PASSED

- HB 19. Penalty for felon in possession increased from 18 months to 3 years if previous felony a serious violent felony.
- HB 40. In-service training each year for strangulation in domestic abuse training for officers.
- HB 52. Electronic system for salvage yards and other recyclers to access a data base that keeps track of stolen vehicles. Failure to check is a misdemeanor.
- HB 67. Misrepresentation of military service to get something of value is now a misdemeanor.
- SB 61. Adds definition of “suffocation” and “strangulation” which can result in Aggravated Battery (DV), a 3<sup>rd</sup> degree felony.

2017 LEGISLATURE (60 day session)

PASSED

- HB 110. In a county with a municipal court violation, an arrest or service of process can be made in adjacent counties.
- SB 76. Requires drivers to move away from the lane adjacent to (or slow down) for emergency vehicles (including tow trucks) displaying hazard lights.
- SB 270. In certain circumstances All-Terrain Vehicles (ATVs) can travel on public roads.

FAILED

- A bill to establish minimum standards for Sheriff.

## 2016 LEGISLATURE

### PASSED

- First responders injured on duty will not lose time for retirement purposes and cities, counties or the state will continue to pay medical insurance in full. HB 43. (Robin Hopkins testified for this).
- “Racheal’s Law” allows judges to grant orders of protection to rape victims for any length of time, including permanently. Victims won’t have to appear in court. Racheal was raped as a child by her father. HB 27.
- Brittany Alerts. Named for a person missing from parent’s house for 18 days but later found safe. Similar to Silver and Amber Alerts, will notify public when a person with a physical or mental disability is missing.
- Vehicular homicide: Penalty increased from six to fifteen years.

### **PART SIX: NEW LEGAL CASES IN NEW MEXICO**

#### **CHILD ABUSE**

News item: CYFD portal to assist law enforcement agencies

Officers can use a portal to see if CYFD has ever been involved with a family. Can also access from laptops in vehicles. Available to all law enforcement agencies in New Mexico. KRQE, July 26, 2019.

#### **CIVIL RIGHTS AND CIVIL LIABILITY ISSUES**

Litigation can be expensive . . .

News item: DOJ settlement with ABQ enters 7<sup>th</sup> year; 20 million

APD had a “pattern of excessive force.” Albuquerque entered into an agreement in 2014 with no end in sight. KOAT, February 4, 2021.

Making it easier for the public to know what is going on . . .

News item: NM State gov't to put lawsuits settlements online

Previously, lawsuit settlements could be kept secret. Risk management changed this. Public can learn who filed lawsuit, who it was against, and the settlement. KRQE, June 21, 2019.

News item: Secret Documents: State officials secretly paid out \$27m

From 2014 to 2019 Risk Management secretly paid out \$27 million dollars in settlements. KRQE, February 18, 2020.

News item: NM launches website listing lawsuit settlements

The website: [www.sunshineportalnm.com](http://www.sunshineportalnm.com). At the bottom of the main page, a box titled "Risk Settlements/Awards" will take users to the lawsuit settlement portal. KRQE, August 30, 2019.

**Note:**

This was a result of KRQE investigative reporter Larry Barker exposing secret DPS settlements by a previous state administration. In 2020, this policy became law.

News item: State pays to settle lawsuit

NMDPS will pay \$218,000 to cover legal fees of a man who sued DPS. The state paid contract attorneys \$40,000 to fight the lawsuit before agreeing to settle. The Santa Fe New Mexican, 24 Jan 2021.

That 'ole time religion' can sometimes be expensive . . .

News item: Bloomfield seeks help paying ACLU

Bloomfield put Ten Commandants in front of City Hall. Lawsuit followed: Bloomfield owes ACLU \$700,000. Albuquerque Journal, August 25, 2019.

**DWI**

Asking for consent for a breath or blood test . . .



**Note:**

When officers in New Mexico ask for consent, they first read the Implied Consent act which says refusal will mean the driver's license will be revoked. Also, the person will be charged with Aggravated DWI.

DWI Consent (Breath & Blood)

When a DWI suspect failed field tests, a Bernalillo County Sheriff's deputy read the implied consent act to her. She gave a breath test (.04, .05) but refused a blood test. She was charged with DWI.

Supreme Court of New Mexico said a person who refuses a **breath** test can be charged with Aggravated DWI; a person who refuses a **blood** test cannot. State v. Vargas (2017).

Recommendations and suggestions:

If an officer wants a blood sample, recommend a search warrant. The law, however, states a search warrant is possible only if there is death or great bodily injury to another or there has been a felony. NMSA 1978, Section 66-8-111.

Facts:

Driver Debra Gallegos was stopped at a NMSP checkpoint. A surprise: her breath test results were .000.

Officer Vernier took her to a local hospital and ordered personnel to draw blood. She was booked for DWI, first offense, a misdemeanor.

Court of Appeals held it was an illegal seizure (drawing of blood) and that her Fourth Amendment rights had been violated. Lawsuit permitted to go forward. Gallegos v. Vernier (2019).

A request for independent blood test . . .

After telling a DWI suspect of a right to their own blood test, it is sufficient for an officer to give a suspect a telephone book and a phone. A suspect can also call a friend or family member for help.

The officer is not required to do more than that. NMSA 1978, Section 66-8-109 (B). State v. Chakerian (2018).

## DWI and Child Abuse . . .

### DWI – Child Abuse – Moving Vehicle

In Eddy County, an intoxicated person drove a vehicle with his nine-year-old. In addition to DWI, he also was charged with child abuse by endangerment. NMSA 1978, Section 30-6-1.

Court of Appeals held driving while intoxicated – standing alone – is sufficient to support child abuse by endangerment. Defendant put his child within a moving zone of danger. State v. Orquiz (2012).

- Some people feel DWI should be a felony on the third arrest. They note that:
- Third offense domestic violence (assault and battery) is a felony; second offense telephone harassment and stalking is a felony; and
- Issuing Worthless Checks over \$25 is a felony.

## DOMESTIC VIOLENCE

### Note:

The following Supreme Court case, although it came out in 2013, is an important case for domestic violence.

Domestic Violence – Misdemeanor outside presence of officer. . .

A person commits a misdemeanor domestic battery. Police are dispatched. What are the options if the suspect has left?

Facts:

- Defendant kicked his girlfriend at the State Fair parking lot. Albuquerque police arrested him within minutes at a store across the street.
- Supreme Court upheld arrest for domestic violence because it was **in close proximity** to the incident. The arrest occurred within minutes of the incident and was a short distance away. State v. Almanzar (2013)

NMSA 1978, Section 31-1-7 states: (for misdemeanors only)

. . . a peace officer may arrest a person and take that person into custody without a warrant when the officer is at the scene of a domestic disturbance . . .

What does that mean for a field officer?

If not in close proximity, an arrest warrant is needed. The most important thing is the safety of the victim.

Note the underlined words in the statute – officer must be at the scene of the crime to make an arrest; this is the only statute in the criminal code that has that requirement.

One result of this case has been fewer arrests for misdemeanor DV cases.

Not much progress in domestic violence . . .

News item: Report: Funding fails to stop Domestic Violence

Law enforcement in New Mexico in 2018 responded to 19,000 reports of domestic violence, roughly the same as in 2014. KOB, December 2, 2019.

**NOTE:**

**Conviction rate for domestic violence is extremely low.**

## **FIREARMS**

### Felon in Possession – Double Jeopardy

A felon in possession of a stolen firearm. Court of Appeals held it was **not** double jeopardy to charge Felon in Possession and Receiving Stolen Property (Retain).

They are two different charges. A felon can possess a gun which may be stolen or not stolen; a person who possesses stolen property may or may not be a felon. State v. Cummings (2018).

### Editorial: Criminals who use guns should face penalties

In federal court, Texas and Utah, a person who commits a crime using a gun faces an additional ten years. Bernalillo County DA Torres said felon in possession of a firearm is “usually bartered away during plea negotiations.” Albuquerque Journal, August 23, 2017.

### **Note:**

**Legislation to increase the penalty for felon in possession of a firearm from 18 to 36 months passed in the 2018 NM Legislature. It applies to felons who have a previous serious violent felony.**

### News item: US Supreme Court upholds reach of gun ban for DV

Supreme Court upheld a federal law that bars people with misdemeanor DV from owning guns for life. Defendant had slapped his girlfriend in the face while intoxicated. KOB-4, June 27, 2016.

In 2021, a thirteen-year-old took his father’s firearm to school and killed another student. Some people want legislation to help prevent this.

## **HATE CRIMES**

### News item: Study reveals NM only state to have zero hate groups

In 2004, 2005, and 2018, NM had zero hate groups. NM was the only state in 2018 to have zero hate groups. Study by Southern Law Poverty Center. KOAT, January 14, 2020.

Note:

Legislation to include additional groups such as the homeless or police officers at the legislature have not been successful.

US Attorney and FBI have been very helpful on hate crime cases.

### **HUMAN TRAFFICKING & PROSTITUTION**

Law enforcement is looking at those who promote prostitution in a new way. Charges in the past would be promoting prostitution or accepting the earnings of prostitution. But there is another charge that is dramatic and has more of an impact: human trafficking.

Victims can be eligible for benefits, regardless of immigration status, but need to cooperate in the investigation or prosecution of the offender. NMSA 1978, Section 30-52.1.

News item: Prostitutes: APD cuffs them, BCSO unit helps them

Are sex workers criminals or victims? In a recent trafficking operation, APD booked five women on petty misdemeanor charges. BCSO didn't arrest any sex workers but identified nearly a dozen and helped them find social services. Albuquerque Journal, August 3, 2017.

Lesson to be learned:

It is a new approach to prostitution. The "pimp" is charged with trafficking and the prostitute is treated as a victim. Efforts are made to assist the victim.

## INSPECTION OF PUBLIC RECORDS ACT (IPRA)

New Mexico has an Inspection of Public Records Act (IPRA) which empowers private citizens to enforce public records laws. Attorney fees can be awarded to attorneys who prevail in cases under IPRA.

### News item: Insurance covering some IPRA violations

Local and state gov't agencies paid out more than \$1.2 million in penalties and legal fees in 2019 for failing to follow IPRA. Some of this was covered by insurance. Albuquerque Journal, Feb 2, 2021.

### News item: Judge awards damages, fees in records suit

A former Santa Fe lieutenant sued the city for failing to comply with IPRA. Awarded \$11,550 in attorney fees and \$4,275 in damages. Santa Fe New Mexican, March 11, 2021.

### News item: Albuquerque pays over \$300K on lawsuit settlements

An APD officer fired for failing to turn on his body camera sued the City for not responding to an open records request. City paid him \$85,000. KRQE, April 6, 2021.

### News item: Justices: Cops Can't Hide behind "ongoing investigation"

Editorial: Law enforcement records exempt from IRRA include those that "reveal confidential sources, methods and uncharged individuals." Supreme Court said IPRA did not create an exception for "an ongoing criminal investigation." Albuquerque Journal, July 25, 2020.

### News item: Rio Grande Sun settles Records suit with NMDPS

For failure to comply with IPRA, DPS will pay the newspaper \$250,000. Rio Grande Sun, October 11, 2019.

### News item: Public Records Suit costs NM town a hefty amount

It's a big payday for a local newspaper. The city of Jal is agreeing to pay more than \$400,000, a tenth of its budget, for withholding public documents. KRQE, April 15, 2019.

## MIRANDA

We're including a section on 'false confessions' because it can be devastating when it happens.

Why on earth would anyone confess to something they didn't do?

One wonders: how did the officers, usually senior detectives, fall for it? Did they use coercion? How many other false confessions are out there?

The following four high profile homicides are from Albuquerque. Cases like these, of course, have occurred elsewhere.

The Robert Gonzales case . . .

APD believed Robert Gonzales killed an eleven-year-old girl. He had a low IQ, around 65, when APD interrogated him. During the interrogation, APD gave Robert a lot of the details. He confessed.

News item: Slaying Suspect Freed, DNA matches to Another Man

In Albuquerque Robert Gonzales confessed to the brutal rape and murder of a young girl. He spent thirty-two months in jail when DNA identified the real killer. Albuquerque Journal, June 28, 2008.

**Note:**

APD said they would review polices to make sure this would not happen again. But then . . .

The Korean-American couple case (Mr. & Mrs. Yi) . . .

An elderly husband and wife were killed in their residence. Police canvassed the neighborhood and learned two males were selling magazines that night. One gave a false confession to APD.

News item: DA drops Murder Charges Against 2

Two men released after fifteen months in jail. DNA from under the victim's fingernails matched a career criminal in prison for another homicide. Albuquerque Journal, March 12, 2009.

Note:

APD said they would review policies to make sure this wouldn't happen again. But then . . .

The Victoria Martens case . . .

She was ten years old. At school she presented a happy, cheerful face, perhaps to compensate for the nightmare at home.

She was used for prostitution (trafficking) but then they killed her and set fire to her body. Veteran APD officers were stunned. APD Chief said it was "the most gruesome act of evil" in his career.

News item: A shocker in Martens case

Her mother, Michelle Martins said she and her boyfriend, Fabian Gonzales, did it. He denied it.

Even though she gave three different versions of how she died, police believed her. DA's Office was skeptical.

After two years, cell phone technology showed both were not there. Murder charges dropped. DNA shows another male was involved. Albuquerque Journal, June 30, 2018.

Note:

APD said they would review policies to make sure this would never happen again. But then . . .



## The Jacqueline Vigil case . . .

A lady was in her vehicle, ready to go to the gym, when she was killed. In a year (2019) that had 82 homicides, this shocked the community. At the time, she had two sons who were NMSP officers.

APD got a false confession from Zachary Barranca who said he was present but on his cell phone. Records said this wasn't true. He told DA investigators an officer got angry so he confessed to the crime. He has since been cleared of all charges. KOB, Nov 12, 2020.

### Note:

APD said they would review policies to make sure this would never happen again.

### Suggestions and recommendations:

People falsely confess, even to horrible crimes. In any class on interrogation, recommend a segment on false confessions.

### Miranda – Public Safety Exception

As an APD officer put on his protective gloves, he asked Defendant, who was in custody, "Is there anything on your person that I need to know about?" Answer: "I have meth."

No Miranda warnings given but Supreme Court said the answer was admissible under the Public Safety Exception to Miranda. State v. Widner (2020)

### The Miranda two step. . .

An officer in Silver City, without reading Miranda, questioned a juvenile in custody about a homicide. The juvenile confessed and the officer told him to give a statement to a detective. Detective read Miranda and the juvenile confessed again.

Supreme Court held this was a continuing confession, interrupted by a midstream warning. Second statement inadmissible. One remedy might be to tell suspects anything previously said will not be used against them. State v. Filemon V. (2018)

Police Officers exercising Miranda rights . . .

Editorial: How do you get answers and protects cops' rights?

Several officers in a fatal shooting in Santa Fe invoked their Miranda rights and did not give statements to NMSP investigators.

“Welcome to the new normal, where sworn law enforcement officers not only read the Miranda rights but invoke them. Can you blame them?” Albuquerque Journal, September 15, 2015.

### **MISTAKEN EYEWITNESS IDENTIFICATION**

The Innocence Project, using DNA, has been successful in getting nearly four hundred people released from prison. In about 75% of the cases, the person in prison was wrongly identified.

There are some simple things law enforcement can do in a photo lineup to reduce the chances of this happening:

#### **Double-blind identification**

The most crucial reform is double-blind administration: the police officer showing the photo array should not know who the suspect is, and the witness should be told the officer does not know.

#### **Sequential presentation of photos**

Presenting photos one-by-one (sequential), rather than all at once (simultaneous) may decrease the chance of an innocent person being identified.

When viewing several photos at once, witnesses tend to choose the person who looks the most like – but may not actually be – the offender. NMSA 1978, Section 29-3B (Accurate Eyewitness ID Act).

## **PROPERTY CRIMES**

### **Breaking & Entering – Window Screen**

A man tried to pry off a window screen at a residence in Las Cruces, New Mexico. The screen was out of its track, bent half way down, when he looked up and saw a resident. He promptly fled.

Supreme Court said entry began at the screen, not the window. Once Defendant put his fingers on the inside portion of the screen, he committed breaking & entering. State v. Holt (2016).

### **News item: Supreme Court clarifies criminal trespass in Portales**

NM Supreme Court held general public doesn't automatically have permission to enter property if there are no signs of trespassing.

Defendant was running from police in pre-dawn hours and jumped a wall surrounding residential property. 3:00 a.m. and a wall: that's notice. State v. Merhege (2017).

### **Possession of Burglary Tools – Intent**

Possession of Burglary tools has two parts: Possession and Intent. APD officer, while doing a pat down, found two car keys filed down to "jiggle keys" or "bump keys," commonly used in auto burglary. However, couldn't prove intent. Court of Appeals reversed conviction. State v. Montoya (2021).

## “RED FLAG” LAW

Also known as the Extreme Risk Firearm Protection Act, NMSA 1978, Section 40-17-1 through 13.

. . . upon credible information from a reporting party that gives an officer probable cause to believe a person poses a significant danger of causing imminent personal injury to self or others by having a firearm, the officer can seek a temporary protection order for the firearm(s).

The person has a number of safeguards: The reporting party must give a sworn affidavit. To get a one-year order, a hearing must be held within 10 days. During that year, at any time, the person can petition to have his or her firearm(s) returned.

When an officer goes to a person’s residence, they will show the person a sworn affidavit and a court date for a hearing where the person can tell their side of the story (within ten days).

The officer can ask for weapons but the officer cannot seize weapons. That’s because this is a civil matter, not a criminal matter.

The officer, however, can tell the person it is a misdemeanor if the person retains a firearm once a court order has been issued.

### Note:

The reality is that the “red flag” law will be used only in extreme cases.

## SEARCH & SEIZURE

### CELL PHONES

The first US Supreme Court case to discuss cell phones and privacy was a search incident to arrest case. Officers can empty pockets, look through wallets, cigarette packages, etc., without a warrant. But what about a cell phone or smart phone?

The Supreme Court noted the incredible amount of information stored in a cell phone. Because of this, they said a search warrant is needed to look at the contents or data of a cell phone.

True, bad guys can use technology, but so can law enforcement. NM was one of the first states to approve electronic warrants to make it easier for an officer to get a warrant. Riley v. California (2014).

#### United States Supreme Court on cell phone location data:

Each time a cell phone connects to a cell site, it generates a time-stamped record. Police used this to get robbery convictions in Detroit.

In 2018, US Supreme Court said a person has a privacy interest in their physical location and movements. To get cell phone location data, police need a search warrant. Carpenter v. United States (2018)

The following year the state legislature in New Mexico passed the Electronics Communications Privacy Act. NMSA 1978, Article 16F, Section 1-6. This little-known section provides excellent guidance to use when getting a search warrant for cell phone data.

## **CONSENT**

Facts:

NMSP officer was doing a “knock & talk” and asked for consent to search a residence. He told Defendant he had asked for over 200 warrants and never been turned down and he had probable cause. Defendant gave consent and drugs were found.

Supreme Court determined there was no probable cause to search and the officer’s assertion that he did was coercion. Evidence suppressed. State v. Lovato (2020).

## **COMMUNITY CARETAKER EXCEPTION**

An important exception that has seen changes in recent years. It has three main categories, known as doctrines:

- Public service doctrine - applies to vehicles.
- Emergency aid doctrine - applies to homes.
- Impoundment & Inventory- mainly for impounding vehicles.

## **Impoundment and Inventory doctrine**

In Farmington, a NMSP Sergeant did an “EMS assist” to assist emergency medical services about a man “slumped over the steering wheel.” He was taken to the hospital. The vehicle was in the parking lot of a Mini-Mart and left there.

Sergeant did an inventory search. Saw a closed backpack in the backseat, opened it, and found drugs. Driver charged with trafficking. Court of Appeals held it was a good search. State v. Byrom (2017).

## Public Service Doctrine and Stopping Vehicles

Shortly after midnight, in Lincoln County, an officer saw a Jeep parked on the shoulder of a road. Two people were inside and a woman in the passenger's seat appeared to be unconscious. The driver drove away and was stopped. There was no suspicion of a crime.

Upon investigation, driver was arrested for DWI. Court of Appeals said a vehicle can be stopped for a specific, articulable safety concern. It was a good stop. State v. Sheehan (2014).

### Note:

A name change: the public service doctrine was formerly the community caretaker doctrine.

## Emergency Aid Doctrine – Welfare Check

For many years officers were told it's OK to enter a residence (without a warrant or consent) to do a welfare check.

Often, one would hear an officer say, "if this involves a kid, I'm going in."

However, need to be careful about entering houses . . .

News item: Court of Appeals overturns conviction in fatal DWI case

A drunk driver killed a motorcyclist and left his truck at the scene. Rio Arriba deputies went to his residence, entered, and found suspect.

No evidence suspect has been injured. Key in his pocket matched the vehicle and he gave incriminating statements.

Court of Appeals said community caretaker or emergency assistance doctrine did not apply. State v. Cordova, Albuquerque Journal, June 17, 2015 **Note: Found guilty in second trial in 2017.**

Facts:

Victim was outside her boyfriend's house where she had stayed three or four days. She wanted to get her personal things. Ruidoso police officers went in, got her clothing, and saw drugs nearby.

Court of Appeals said emergency aid doctrine is similar to exigent circumstances but no emergency here. Evidence suppressed.

State v. Ramos (2017).

Facts:

In Farmington, an officer was dispatched when a neighbor heard a loud "thumping" sound from the apartment above. Officer heard a young child hollering, "Mommy! Mommy, wake up!" An infant was crying. He did not hear the mother or any adult moving around.

Officer's entry in the residence was good. State v. Yazzie (2019).

**Note:**

**A high standard exists to enter a residence without a warrant.**

### **REASONABLE SUSPICION – HUNCH**

Facts:

In Clovis, a NMSP officer, with over twenty years, watched for drug activity at a gas station. He saw a car drive up and park. A person got in the back seat, stayed a few minutes, and left. A few minutes later, same thing happened. He stopped the car and found meth.

Supreme Court held this was more than a hunch; it was, upon looking at the totality of the circumstances, reasonable suspicion. State v. Martinez (2020).



## VEHICLE STOPS

### Aggravated fleeing – Marked vehicle

Aggravated fleeing requires the officer stopping the vehicle be in uniform in a marked vehicle.

Curry County Sheriff's Deputy stopped defendant for Aggravated Fleeing. He was dressed as a detective, wearing dress shirt with tie, dress slacks, and dress shoes. His badge was displayed on his pocket.

Was the officer in uniform? (No). A badge is not clothing which means the deputy was not in uniform.

Was officer in appropriately marked law enforcement vehicle? (No)

The vehicle had flashing lights and a siren but nothing to indicate it was a law enforcement vehicle. Supreme Court reversed conviction. **(2020)**.

### Aggravated fleeing – Another person

In Las Cruces, a NM State University Police Officer in a high-speed chase. It was 0300, the roads slippery and wet, as Defendant raced down a main street, going over 70 mph. He crashed into a road sign.

“Aggravated fleeing a law enforcement officer consists of a person willfully and carelessly driving a vehicle in a manner that endangers the life of another person after being given a visual or audible signal to stop . . .” NMSA 1978, Section 30-22-1.1 (A).

Supreme Court held it doesn't mean another specific person has to be put at risk. Instead, we ask: Was his driving so dangerous that another person could have been hurt? (Yes) Conviction affirmed. State v. Vest (2021).

### Aggravated fleeing – Felony murder

In Albuquerque, after stealing a van, Defendant led police on a high-speed chase. Driving at nearly 80 mph, she ran a stop sign and smashed into another car. Two people in the other car died.

Not all felonies lead to felony murder but in this case it did. Supreme Court sent case back to District Court. State v. Groves (2020).

## VIOLENT CRIMES

### Agg Assault – “Use” of a Deadly Weapon

A principal in Clovis learned Defendant (Child) had a weapon on campus. He saw what appeared to be a gun under his waist band. As the Child emptied his pockets, there was a Co2 cartridge, the kind used in a BB gun. That's when the child asked a few questions:

“How would you feel if a twelve-year-old shot you?” “What would happen if somebody shot up the school?” “Are you afraid to die?”

Aggravated assault with a deadly weapon is “unlawfully assaulting or striking someone with a deadly weapon.” Child didn't take the gun out, but the presence of the gun was “used” to make his threats more dangerous. Supreme Court upheld charge. State v. Zachariah G. (2021).

### Battery on Healthcare Workers . . .

Battery on a healthcare worker is a fourth degree felony if she or he is in the law discharge of her duties. NMSA 1978, Section 30-3-9-2.E.

Court of Appeals said this covers all employees of a health care facility, including a security guard. State v. Vilino (2012).

#### Interference with educational process . . .

In Capitan, a principal told a middle school student he heard the student had a “hit list.” The student replied, “not a hit list, it’s a kill list.” The student had said something similar to another student.

NMSA 1978, Section 30-20-13(D) states “no person shall willfully interfere with the educational process . . . by threatening to commit any act . . . which would disrupt or interfere with the school.”

Police investigation took about four hours. Court of Appeals held there was enough evidence to go to trial. State v. Quintin C. (2019).

#### Robbery . . .

##### Robbery – Can you rob a dead man?

Normally you can’t rob a person already dead; however, if a person kills another and then robs the victim, robbery can be charged. State v. Montoya (2017).

### **CONCLUSION**

Much has changed in law enforcement and a lot of challenges face us. Now is the time to move forward.