NOTICE OF PUBLIC HEARINGS

The New Mexico Public Defender Commission ("Commission") hereby gives notice that the Commission will conduct public hearings to obtain public input on the possible adoption of a new rule concerning an Interim Case Refusal Protocol.

The hearings are scheduled to occur as follows:
Monday, May 21, 2018 at 9:00 a.m.
Room 321, State Capitol
490 Old Santa Fe Trail,
Santa Fe, New Mexico, 87501.

Tuesday, May 22, 2018 at 10:00 a.m.
Ruidoso Convention Center
111 Sierra Blanca
Ruidoso, NM 88345

The hearings may be recessed and reconvened at a later date as needed.

Authority: Article VI, Sec. 39 of the Constitution of New Mexico establishing an independent Public Defender Commission; Section 31-15-2.4(B)(6) NMSA 1978; Section 31-15-7 NMSA 1978.; NMAC 10.12.13.; the Rules of Professional Responsibility.

Purpose: The Public Defender attorneys are obligated under federal and state constitutions and rules of ethics to represent clients according to recognized standards. These standards require certain steps to be taken in every case to ensure that each client receives fair and legally adequate representation. At some point this minimally required representation becomes impossible to provide because of too many cases. The question is where is that point? How is it determined, and how is the Department to responsibly proceed when that point is reached? The Commission will receive public information on these questions and will consider a proposed protocol for refusing cases.

Summary of full text: The proposed protocol provides the Chief Public Defender guidelines for determining when accepting additional cases would be ethically irresponsible due to excessive attorney workloads within a local office or by a contract attorney. The proposed rule requires the Chief Public Defender to assess the likelihood of creating conflicts of interest with existing clients and creating an unacceptable risk that each client would not receive competent representation at all stages of the case.

The proposed protocol then provides procedures for the Chief Public Defender to follow, including notification to courts when it is determined that workloads require the Department to decline additional case assignments by local offices or contract attorneys. Finally, the proposal outlines how to proceed when circumstances have changed sufficiently to permit the affected attorneys to once more receive case assignments.

To accomplish these purposes, the proposal provides for the collection of data regarding attorney workloads on the part of Department attorneys and contract attorneys.

The Commission will provide opportunities for employees of the Department and interested parties to comment on the proposed rule adoption. Comments may be provided at the public hearings and/or electronically via email to judy.gonzales@lopdnm.us (505) 395-2887 or mailed to Judy Gonzales, Law Offices of the Public Defender, 301 N. Guadalupe, Santa Fe, New Mexico, 87501.

Written comments must be received no later than 5:00 pm on the Thursday prior to the first public hearing. However, the submission of written comments as soon as possible is encouraged. Persons may also submit written comments at the public hearing.

Copies of the proposed rule are available for download on the Law Office of the Public Defender (LOPD) website at http://www.lopdnm.us/ and are available at the LOPD located at 301 N. Guadalupe, Suite 101, Santa Fe, NM 87501. A copy of the proposed rule may also be requested by contacting Judy Gonzales at the LOPD at (505) 395-2887.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearings are asked to contact Judy Gonzales at (505) 395-2887 as soon as possible to provide requested special accommodations.