



May 16, 2024

The Honorable Michelle Lujan Grisham  
Governor, State of New Mexico  
490 Old Santa Fe Trail Room 400  
Santa Fe, NM 87501  
c/o [holly.agajanian@state.nm.us](mailto:holly.agajanian@state.nm.us)

**Re: New Mexico Department of Justice Public Safety Package for 2024 Special Legislative Session**

Dear Governor Lujan Grisham,

In anticipation of the upcoming special legislative session on public safety I have once again asked police, prosecutors, and crime victims from around the state what issues they would like to have included in the Legislature's agenda. Recognizing the inherent limitations of this truncated process, we nevertheless believe that there are three discrete action items that would increase law enforcement's investigative capacity, improve judicial accountability, and safeguard crime victims' rights and thereby improve the overall performance of the criminal justice system.

While I encourage you to take a closer look at the comprehensive policy recommendations that front-line professionals identified during our law enforcement and treatment summits last fall, I recognize that many of those topics may be too complex to take up during a special session. I continue to believe that those recommendations, which included specific ideas for both targeted enforcement and long-term prevention, should form the basis of a comprehensive crime reduction strategy and should also be placed on the agenda of the Legislature's interim committees so that they can be acted upon during the next regular session. In the meantime, I hope you will consider adding the following limited requests which come directly from our work with front-line professionals from around the state.

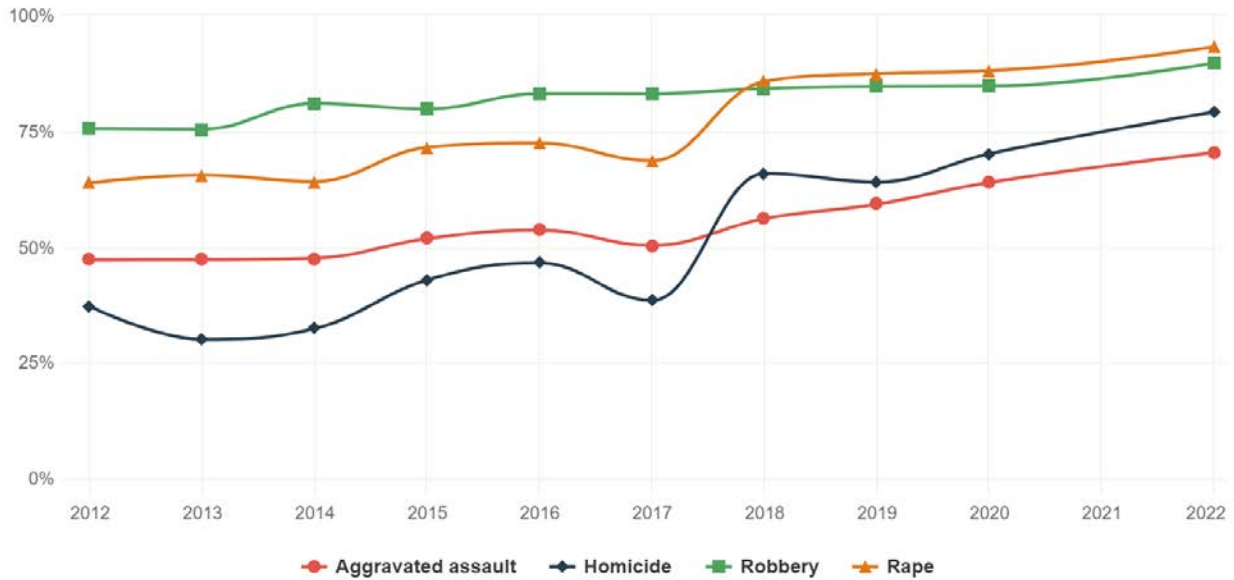
### **I. Rapid DNA Analysis Tool for Law Enforcement**

The latest data from FBI's Uniform Crime Reporting (UCR) Program indicate that approximately 75% of violent crime in our state goes unsolved and if we are going to have any hope of building safer communities, we must do substantially more to support the critical work of our overburdened police departments. While there are a number of unique factors in our state's criminal justice system which unnecessarily contribute to the tremendous strain placed on

police officers, it is undoubtedly true that our law enforcement agencies need more targeted resources, training and technical support to improve the clearance rate for violent crime.

The urgent need for additional investments in law enforcement is made clear by looking at the unsolved rate of four of the most serious violent offenses. According to the most recent figures from the UCR, a staggering 93% of rapes, 90% of robberies, 79% of homicides, and 70% of aggravated assaults in New Mexico go unsolved.

## Violent crime unsolved rate in New Mexico, by offense



FBI Uniform Crime Reporting Program  
Aggregated from SRS agency-level Offenses Known reports

Our law enforcement professionals need investigative tools that are matched to the challenge before us. We must invest in the development and implementation of advanced, data-driven investigative tools. New Mexico recently took an important step in aiding law enforcement by securing four additional NIBIN machines for use statewide to combat gun violence. We have an opportunity to complement this progress by adding rapid DNA analysis capabilities to more of our law enforcement agencies.

DNA analysis in criminal cases allows law enforcement to better identify – or exonerate – individuals suspected of violent crime. However, New Mexico currently experiences long wait times of six months or more for DNA analysis by crime labs. Unfortunately, delays of this kind often stall investigations as leads grow stale, memories fade, and evidence degrades. With advancements in rapid DNA analysis equipment, law enforcement can get preliminary DNA test results in as little as 90 minutes. Analogous to the rapid COVID tests, rapid DNA analysis can quickly direct further investigative resources where needed.

To fully harness the potential of this technology, we are seeking an appropriation to fund the purchase of these machines for dissemination to law enforcement agencies throughout the state. These machines would allow our state to maximize the capabilities of rapid DNA analysis and reduce the barriers to solving violent crime.

## **II. Clarify Section 31-3-12 to Ensure Public Access to Records of Violations of Conditions of Pretrial Release**

Our citizens have a right to know if pretrial supervision is an effective alternative to detention, especially when judges choose to release violent offenders on GPS monitors over the objection of police and prosecutors. Among other things, members of the public and their elected representatives have a right to know what conditions of release have been ordered, whether a defendant complies with those conditions, what level of supervision has been ordered, whether and how pretrial services provides that level of supervision, how pretrial services enforces court-ordered conditions of release, how pretrial services responds to violations of conditions of release, and whether and when pretrial services notifies the court or the prosecuting agency of a violation of conditions of release. Without this information, policymakers cannot evaluate the effectiveness of either the court's conditions of release or the supervision by pretrial services. The need for public scrutiny on these matters is not merely an academic exercise; transparency and effectiveness in the operation of pretrial services is vital to public safety.

Unfortunately, New Mexico's largest district court has refused to provide basic information about how it supervises some of the most dangerous defendants in our state and I have been forced to file a lawsuit under the Inspection of Public Records Act (IPRA) arising from their refusal to provide basic information about GPS monitoring violations requested by journalists. In its refusal to provide the records, the Second Judicial Court relied upon an overly broad interpretation of House Bill 68, later codified in Section 31-3-12, and a New Mexico Supreme Court Order that presumably applied Section 31-3-12. However, the Order went far beyond the scope of Section 31-3-12, adding that "all information contained in a defendant's pretrial services file...shall not be made part of any public record."

By clarifying Section 31-3-12 to affirm that pretrial records are public, the Legislature can ensure the statute is applied as intended and prevent the Court from cloaking pretrial services under a veil of secrecy. Considering the significant impact of violent defendants in our community, this straightforward clarification will allow the public to evaluate the effectiveness of pretrial services.

## **III. Office of the Crime Victim Advocate**

The New Mexico Constitution and the Victims of Crime Act expressly establish certain rights for victims of crime in New Mexico's criminal justice system. These rights include, among others, being treated with fairness and respect throughout the criminal justice process, being notified of and attending court proceedings, and making a statement to the court at sentencing. Unfortunately, these rights are not protected as vigorously as are the rights of criminal defendants. As a result, these rights are too often rights in name only.

While we focus on combatting violent crime, this must include protecting the rights of the victims of this crime. From every corner of New Mexico, I hear stories from victims who failed to receive timely notification of hearings or were unable to address a court regarding the traumatic impacts of the crime. These victims need an advocate they can turn to when their rights are abridged. They need a voice to speak up when they are unheard. It is to that end that I am creating the Office of the Crime Victim Advocate within the New Mexico Department of Justice.

The Office of the Crime Victim Advocate will be charged to receive complaints from crime victims and ensure court proceedings comply with the New Mexico Constitution and the Victims of Crime Act. The Office will investigate allegations of violations, engage in training to ensure best practices for compliance throughout the state, and use the authority of the New Mexico Department of Justice to pursue legal remedies in the protection of victims where appropriate. As such, I am requesting an immediate appropriation to fund attorneys, paralegals, and victim advocates to support a statewide effort to protect and defend crime victim rights.

We cannot afford to miss the opportunity presented by the upcoming special session to improve public safety in New Mexico. The stakes are too high and while I recognize that the three limited requests outlined above are not sufficient to meet the scale of the challenges we are facing in this area, I do believe they are necessary to improving the performance of our criminal justice system over the long term. I also believe that they are topics which could likely garner bipartisan support and could be quickly acted upon within the limited time available during a special session. As such, I respectfully ask that you consider adding them to the call for the upcoming special session and offer the full resources of the New Mexico Department of Justice to your team and the members of the Legislature as you go about the important work of improving public safety for all New Mexicans.

Sincerely,



Raúl Torrez  
Attorney General of New Mexico

Cc:

Rep. Javier Martinez, Speaker of the House of Representatives  
Sen. Mimi Stewart, Senate Pro Tempore  
Rep. Gail Chasey, House Majority Floor Leader  
Sen. Peter Wirth, Senate Majority Floor Leader  
Rep. Rod Montoya, House Minority Floor Leader  
Sen. Greg Baca, Senate Minority Floor Leader  
Sen. Joseph Cervantes, Chair, Senate Judiciary Committee  
Rep. Christine Chandler, Chair, House Judiciary Committee