

Meeting Minutes District 4 Coalition February 19th, 2025

In attendance: Alameda North Valley Association, Albuquerque Meadows, Cherry Hills, Heritage East, Knapp Heights, Nor Este, North Domingo Baca, Quail Springs, Quintessence, Vineyard Estates, Vista Del Norte

Friends of D4C: Irene Minke

Guests: Pete Dinelli & Mike Voorhees

Guest Speakers: Pete Dinelli, Commentator

Meeting called to order by Lucy Murillo @ 6:32pm

Introduction of the new board members, members at large, and the office they hold.

Approval of Minutes from January 15th, 2025: Motion to approve made by Bob Stetson, seconded by Jim Stouter. The motion passed unanimously.

Approval of Consent agenda for February 19th, 2025: Motion to amend the agenda made by Steve Wentworth to add guest Mike Voorhees – Westside Coalition of Neighborhood Associations –on the status of Ordinance 0-24-69. Kathy Economy Seconded the motion. Motion passed unanimously.

Councilor Report

Councilor Bassan was unable to attend the meeting due to council meeting, Dawn Marie provided a written report on her behalf. The report is attached.

Guest Speaker Pete Dinelli, Commentator- Pete has provided his presentation in a 13 page document that is attached to the end of the minutes.

Q&A

If it goes back 30 years are there other attorneys involved? There is speculation that two other attorneys were involved. Possibly Mr. Clear's, now deceased, father, who was a defense attorney.

How did the enterprise come to life? There was a man that was stopped and he started questioning the cop, (Joshua Montano was the officer that stopped him). The man passed the field sobriety test, and the tests downtown, but the police officer had him

booked. The man recorded conversations with the police officer and Mr. Clear and went to another attorney in town that had also heard of this complaint

How long ago did this incident happen? About 6 months ago.

How did the DOJ miss this during their investigation of APD for police reform, for excessive use of force and deadly force? There really isn't an answer to this but it is the million dollar question.

Guest Speaker Mike Voorhees - on 0-24-69

This bill was passed the very first meeting of the year with no scrutiny and it is currently under appeal.

3 broad categories to consider about this legislation:

1. Some are process violations
2. Some are violations of constitutional or other statutory requirements of the state
3. Some are just policy that are not going to achieve what is being advertised and will probably end up with worse outcomes.

Process Violations:

This legislation was introduced by a written letter by then council president Dan Lewis on the last meeting of the year right before the holidays. It was not on the agenda, it was buried and you would not know it was there if you did not know what it was. Luckily someone saw it. It went to direct to final action. It bypassed planning staff, a hearing before the planning commission, and bypassed LUPZ. This legislation would purpose this as the new process for anything that is done by request for new developments.

This would actually change the IDO process completely. Corporation or developer can submit a request to change the IDO and it will go straight to final action. Most cities updates occur every 5/10 years. In ABQ, we have had 5 major revisions enacting over 500 changes.

The wrecking ball is being taken to NAs and Coalitions. Lets say they do not tell the neighbors what is going on, even though legally they are required to give notice, according to the legislation, their failure to notify is no longer an appealable offence. Whatever is done on City leased or owned land, is no longer appealable.

What is appealable? - homeowners within 100 ft of the development, your NA has to poll the majority of the home owners within 660ft of the development, get them to agree to sign on to the appeal within 15 days.

Basis of standing- am I allowed to take an action? You have to show that you have a specific interest.

If you are a NA you are probably appealing the improper approval of a project. As a developer, you are probably only going to the appeal the improper approval denial. They created a system that says: You are the developer and you lose, you pay your own cost. **IF** you are a NA and you lose and you pay the developers legal fees. You (NA) are potentially liable for the developer's legal fees.

Violation of 14th amendment and the New Mexico Constitution. Because it has created two classes of people. The NAs and Coalitions, who no longer can collect dues and just have to rely on the donations of their members will have to determine the costs of actually fighting an appeal and what it is going to cost.

Addressing the zoning being advertised. It was done to address with housing issues of affordability and homelessness- it may increase the # of houses but it is not going to address affordability. This legislation has done nothing to do with affordability. This is a "developer giveaway". This is part of a really good misinformation campaign. The issue with the groups that they have engaged to help with civic engagement is that their message is based in "zoning is the root of all evil" and causes housing unaffordability.

A lot of this happens in middle to lower class neighborhoods. Where corporations buy up neighborhoods to gentry them and change to multifamily units and some to rentals, and fewer permanent residents.

How does this apply to D4? It applies to anything within a quarter mile of premium transit corridors. Through Jefferson, by the Journal center, turns west on to Paseo and goes over the river up through District 5 to Unser and heads North. This means within a quarter mile of that corridor there are NO BUILDING HEIGHT RESTRICTIONS ON ANYTHING. It says on housing or premises.

What is a premises?- any lots or connected lots owned by an individual. Doesn't say what kind- could be an apartment, car wash or a data center. This includes all of Old Town. As long as it is the same use of the previous structure you can now go as high as you want.

Q&A

An appeal has been filed. Hopefully the ordinance will be overturned on the process. But a judge may say individual parts are unconstitutional or against the law other parts may be bad policy but not against the law.

Neighborhood Association Roundtable:

Vineyard Estates: New Principal at LCHS, no update Alameda and Barstow on the apartment complex, coyotes have been seen behind DRMS, still lots of speeding on Ventura.

North Domingo Baca: Nothing to report

Irene Minke- Friend of D4C: 27 million to tear down Arroyo del Oso elementary and build a new school. There is supposed to be a park but there is no plan for it and the school's population is decreasing.

Quintessence: a couple of homeowners reporting speeding. The park got a new water fountain!

Quail Springs Neighborhood Association: finished our annual meeting and ready for the 2025 year.

Alameda North Valley Assn.: still involved with the lawsuit against United Soccer stadium and still in the court system. They are also donating to court action to fight against 0-24-69.

Albuquerque Meadows: Gate was broken and being pushed open by transients, the police brought them a decoy car that they are able to move around. Community privately owned by a corporation in Florida. Working to purchase the land from them. They will be taking a bus to Santa Fe to lobby for a few of the house bills regarding rent stabilization.

Vista Del Norte: Asking for traffic control due to someone being hit in the 4 way stop. Traffic calming measures go through the city of Albuquerque traffic engineering department. This now goes to the Mayor instead of APD. Board voted to match the donation of \$100 to the coalition.

Cherry Hills:

Speed Calming for a blind spot on Harper. They have reached out to Dawn Marie about the issue and they were told Brook's office would get back to them.

Heritage East:

They have an Easter event planned at Rotary park, they are trying to get more picnic tables, they only have 3 tables and no water fountain.

Nor Este:

No issues and nothing to report

Knapp Heights:

Qualified for traffic calming. The request requires the signatures of 7 neighbors to agree and then a 3rd party does the study. They are 21st on the list, and it could be years before anything is done.

Pete Silva- officer with North East area of command - crime stats for the NE area of command from 1/1 till 2/19:

Larson - 119 mostly shoplifting

Auto Burglaries - 51

Residential Burglaries - 22

Commercial Burglaries - 26

Auto theft - 85

Disturbance - 327 - general calls. A lot of traffic violations

Aggravated assaults - 67 mainly road rage incidents.

Family Offenses - 211 including Domestic Violence

Q&A

How many designated officers for traffic monitoring? 10 officers in all of the metro.

Officers Reports

Co-President Lucy Murillo -Distributed with the meeting agenda prior to the meeting. An update on 0-69-24 was provided. As a coalition we need to educate our members because there are still NA's that do not know this is going on or approved.

Co-President Lorna Howerton - Nothing to report.

Vice-President Kathy Economy-

Tasked with calling 10 Neighborhood Associations to see why they are not part of the coalition, 9 did not respond, and the one that did, Academy North said they are defunct.

Treasures Report Judie Pellegrino - Nothing to report.

Secretaries report Aubrey Gladwell - We received Thank you letters from Locker 505 and Roadrunner food banks for our donations in December from the coalition. In 2024, Roadrunner Food Bank donated over 48 million pounds of food and was able to help more than 826,000 families across New Mexico.

Committee Reports

Hospitality Report-Irene sent Lorna a card and one will be sent to Mark Reynolds no later than Friday.

Zoning and Development - Ellen Submitted her report prior to the meeting and her report is attached below.

New Business:

Jim Griffee: Adding the neighborhood associations to the website. If a neighborhood has a website that can be added to the website and the possibility of adding a separate page to the website.

Next meetings will be March 19th, 2025 @ 6:30 pm

Motion to Adjourn meeting by Jim Souter, seconded by Bob Stetson 8:25 pm.

Councilor Bassan Report-D4 Coalition

Councilor Bassan is hard at work in Santa Fe advocating for capital outlay funds.

The top priorities this year include:

The NDB Aquatic Center-ask amount \$20 million

Vista Del Norte Park & Trail

Alameda Little League

APD Training Shooting Range Park-Upgrades

Numerous other funding requests have been submitted for District 4.

Progress have been made in filling several vacant board positions at City Council –thank you to the dedicated constituents who have volunteered their time to serve. We will have an updated list of boards that still have vacancies in District 4, and will send that to the Coalition.

If you need assistance following up on a 311 request or have any questions, please don't hesitate to reach out.

Submitted by:

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FEBRUARY 19, 2025

**PETE DINELLI DISTRICT 4 NEIGHBORHOOD COALITION PRESENTATION
OMNIBUS CRIME PACKAGE**

On February 15, the New Mexico House of Representatives voted 48-20 on an omnibus crime package of six bills intended to reduce crime.

The six house bills embodied in [House Bill 8](#) are:

[House Bill 4](#) would give prosecutors *more options* to involuntarily commit people into a locked psychiatric facility if they are found to be dangerous to themselves or others and unable to stand trial.

"31-9-1.2. DETERMINATION OF COMPETENCY—COMMITMENT

A. [When] ... a court determines that a defendant is not competent to proceed in a criminal case and ... the court shall **determine if the defendant is dangerous.**

A defendant who is not competent is dangerous if the court finds by clear and convincing **evidence that the defendant presents a serious threat of:**

- (1) inflicting great bodily harm, as defined in Section 30-1-12 NMSA 1978, on another person;
- (2) committing criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;
- (3) committing criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978;
- (4) committing abuse of a child, as provided in Subsection D of Section 30-6-1 NMSA 1978;
- (5) violating a provision of the Sexual Exploitation of Children Act;
- (6) committing human trafficking, as provided in Section 30-52-1 NMSA 1978;
- (7) committing a felony involving the use of a firearm; or
- (8) committing aggravated arson, as provided in Section 30-17-6 NMSA 1978.

<https://legiscan.com/NM/text/HB4/2025>

[House Bill 16](#) would increase sentences for trafficking fentanyl, depending on how many pills the defendant is convicted of possessing.

Where a person is found guilty in possession of fentanyl in relation to a crime of trafficking a controlled substance, the basic sentence of imprisonment shall be enhanced by up to:

A. **Three years**, if the person is in possession of between one hundred and five hundred pills, capsules or tablets containing a detectable amount of fentanyl, regardless of its concentration, or between ten and fifty grams of fentanyl powder, whichever is less;

B. **Five years**, if the person is in possession of more than five hundred pills, capsules or tablets containing a detectable amount of fentanyl, regardless of its concentration, or more than fifty grams of fentanyl powder, whichever is less; or

C. **Five years**, if the person has recruited, coordinated, organized, supervised, directed, managed or financed another to commit trafficking fentanyl.

The enhancement shall be in addition to, not a replacement of, charging conspiracy to commit trafficking pursuant to Section 30-28-2 NMSA 1978."

[House Bill 31](#) would more severely punish the crime of threatening to shoot people by increasing the attached penalty from a misdemeanor, which [carries](#) a maximum possible jail sentence between six months and one year, to a **fourth-degree felony**, which comes with 18 months in prison.

[House Bill 38](#) would ban devices that can convert semi-automatic firearms into fully automatic ones.

[House Bill 50](#) would group together the sentences for four different crimes related to stealing motor vehicles. State law already requires longer prison terms if someone commits one of these crimes on multiple occasions, but HB 50 would make subsequent convictions carry greater sentences for having violated any of the four statutes.

Unlawful taking of a vehicle or motor vehicle. (Theft)

Embezzlement of a vehicle or motor vehicle. (Converting to own use a vehicle entrusted with the fraudulent intent to deprive the owner of the vehicle.)

Fraudulently obtaining a vehicle or motor vehicle (Obtaining by means of fraudulent conduct, practices or representations.)

Receiving or transferring a stolen vehicle or motor vehicle

PENALTY ENHANCEMENT FOR SUBSEQUENT OFFENSE

- A. Fourth degree felony for a **first** offense;
- B. Third degree felony for a **second** offense, regardless of which provision was the first offense; and
- C. Second degree felony for a third or subsequent offense, regardless of which provision was the first or second offense.

[House Bill 8](#) will expand the evaluation process to allow judges to make a case-by-case review for suspects accused of certain serious crimes. They would have to go through a mental health hearing to determine if they are competent to stand trial and if they are dangerous. If a defendant is deemed

incompetent and considered to be dangerous to themselves or others, then they can be involuntarily admitted to a mental health facility. A hearing will be held 90 days later to check if they can stand trial.

More than [40 bills dealing with crime and criminal penalties](#) have been filed since the start of New Mexico's 60-day legislative session. Following are a few of the major bills introduced:

- **Senate Bill 32:** Creates it a fourth-degree felony of possession of a stolen firearm.
 - **Senate Bill 70:** Amending it a state racketeering law to include human trafficking and other crimes.
 - **House Bill 165:** Making it easier to hold defendants accused of certain violent crimes in jail until trial.
 - **House Bill 166:** Increase the criminal penalty for convicted felons in possession of a firearm.
 - **Senate Bill 166:** Changing the definition of dangerousness in state's laws dealing with involuntary commitment for individuals with mental illness.
 - **Senate Bill 95:** Making it a capital crime to sell fentanyl to anyone who subsequently dies due to an overdose.
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- [House Bill 86](#), which would remove the statute of limitations for prosecuting a human trafficking offense.
 - [House Bill 106](#) would allow police officers to test someone's blood for drugs or alcohol if they refuse to take a breath test and the police have probable cause to believe they committed a misdemeanor. Existing law only allows police to test someone's blood when they drive under the influence and either kill or seriously injure someone, or when they drive impaired and the officer has probable cause to believe they also committed a felony while doing so.
 - [House Bill 12](#) is headed to a vote on the floor of the House of Representatives. [It would create](#) an alternative process for police officers to ask a judge for an Extreme Risk Firearm Protection Order, if a reporting party isn't available or doesn't want to be involved.

PROPOSED CHANGES TO CHILDREN'S CODE

Bernalillo County District Attorney Sam Bregman has said that from January of last year to November of this year there have been 1,448 juvenile cases. This includes 24 homicides, 386 cases involving firearms, 49 armed robberies, and 44 rapes. He said from 2022 to 2023, there's been a 57% increase in cases that involved kids with guns. However, in the first ten months of 2024, there was a 37.5% decrease in juvenile felony gun crimes compared to the same time in 2023.

[House Bill 134](#) is a bipartisan juvenile justice reform bill. It would expand what is legally called a "serious youthful offender" which would allow juveniles to be charged as adults for more crimes. It is also an effort to rename the Juvenile Corrections Act to the Juvenile Community Connections Act. It would set aside money for programs providing services for youth in detention or CYFD and establish a panel to determine what comes next for a juvenile sentenced to a detention facility.

The proposed changes to the Children's Code and Delinquency Act DA Bregman has listed as the most important are:

- Expanding the definition of "**Serious Youthful Offender**" to include second degree murder, voluntary manslaughter, criminal sexual penetration (rape), armed robbery with the use of a firearm, shooting at or from a motor vehicle causing great bodily harm or death, and shooting at dwelling or occupied building causing great bodily harm or death.
- Extending the age of possible imprisonment for "**Youthful Offenders**" from 21 to 25 years old. As the law is currently written, once a juvenile offender turns 21, in most cases, the criminal justice system automatically loses jurisdiction. Extending jurisdiction to age 25 would provide more time to get youthful offenders to get the treatment and supervision they need, while also monitoring the progress they are making.

- Making it a felony for unlawful possession of a firearm for people under 19 to have any guns, including rifles, and not just handguns. Right now, it is illegal for anyone under the age of 19 to be in possession of a handgun. However, it is not illegal for anyone under the age of 19 to possess an assault rifle. The law would be updating language from **“handgun”** to **“firearm,”** which will include assault rifles. Bregman is also proposing to increase the penalty for this crime from a misdemeanor to a fourth-degree felony.
- Moving a person to an adult facility once they reach the age of 18. Bregman believes that when a juvenile convicted of a violent crime turns 18, they should go to an adult facility because he does not want an 18-year-old in custody with a 13-year-old.
- Remove the use of the **“Risk Assessment Tool”** to determine if a child is to be detained and allow prosecutors to file charges without having to first consult the juvenile probation office. Bregman said detention risk assessments also often stand in the way of holding young people who have been arrested, adding the assessments fail to give judges enough discretion and law enforcement officers enough credit as people with firsthand knowledge of a crime.
Bregman said this: **“I say that if a police officer determines that that person needs to be arrested at the time, they need to be booked into the [detention center], and within 24 hours or so, a judge needs to hear and determine whether or not that person should be detained pending adjudication of the charges”**.
- Unsealing juvenile records during certain court hearings proceedings. This would consist of removing the secrecy laws that seal juvenile records from public review for the most serious offenders. This would allow juvenile records to be used during any adult conditions of release or sentencing hearing without having to obtain a court order to unseal the records. Every judge has the right to know and consider if the person in front of them has a violent past when determining conditions of release or sentencing. This change would allow for additional information to be heard and considered and will ultimately promote public safety.
- Requiring judges to preside over juvenile detention hearings.

- Grant judge's discretion on the length of probation or commitment terms based on a juvenile's history.

STATE SENATE PASSES BEHAVIORAL HEALTH CARE PACKAGE

On February 14, the New Mexico State Senate passed on a bipartisan vote 3 Senate Bills that would make sweeping changes to how New Mexico's mental health and drug abuse treatment programs are run statewide. They are the very first 3 Senate bills introduced in the 2025 Legislative Session.

The package of bills, Senate Bills 1, 2 and 3, passed with broad support, two of them on 37-5 votes and the third on a similar 37-4 vote. Most of the "no" votes were cast by Republican senators. The following is a description of each of the proposed Senate Bills:

Senate Bill 1: This bill would create a \$1 billion behavioral health trust fund that would be invested by the State Investment Council. A yearly distribution of 5% of the fund's value — or \$50 million at the start — would be made to help fund programs statewide.

Senate Bill 2: This bill would appropriate \$140 million to the New Mexico Administrative Office of the Courts and various state agencies to set up a new framework for behavioral health programs statewide.

Senate Bill 3 — This bill would require regional plans be crafted for providing mental health and substance abuse treatment. The plans would be overseen by the state judicial branch and would include time lines and regional funding priorities.

President Pro Tem Mimi Stewart, D-Albuquerque, said this during debate:

"This is a huge change from the way we've done things in the past," said Senate

One major change made to the behavioral health package before the full Senate vote was removing a \$1 billion appropriation for the [new proposed trust fund](#). Money for the new fund is now expected to be

provided in a separate budget bill during this year's 60-day session'. Senate Majority Leader Peter Wirth, D-Santa Fe, said it's unlikely the appropriation will end up hitting the \$1 billion mark this year.

APD CORRUPTION CASE TO DISMISS DWI

It was on Friday January 19, 2024 that the Federal Bureau of Investigation (FBI) executed search warrants and raided the homes of 3 Albuquerque Police officers and the home and law offices of prominent DWI criminal defense attorney Thomas Clear, III. All those targeted with a search warrant are allegedly involved in a bribery and conspiracy scheme spanning at least 15 years to dismiss DWI cases. Bernalillo County District Attorney Sam Bregman ordered the dismissal of over 200 DWI cases because of the scandal due to police officer credibility being called into question in cases they made DWI arrests. Over the last year, the investigation has evolved into to largest APD corruption case in the city's history with no end in sight.

APD, BCSO AND STATE POLICE OFFICERS IDENTIFIED

During the past year, a total of 12 APD Police officers have been implicated in the largest corruption scandal in APD's history. Seven have resigned during the Internal Affairs investigation, 3 are on paid leave, one has been terminated and one has retired. One by one, the accused Albuquerque police officers have been turning in their badges and resigning or retiring rather than talking to Internal Affairs investigators about an alleged public corruption scheme involving DWI cases. The names and dates of the 12 officers who have resigned, placed on leave, who have been terminated or who have retired are:

- On February 7, 2024 **Justin Hunt**, who started at APD in 2000, resigned.
- On February 29, 2024, **Honorio Alba**, who started at APD in 2014, resigned.
- On March 13, 2024, **Harvey Johnson**, who started at APD in 2014, resigned
- On March 15, 2024, **Nelson Ortiz**, who started at APD in 2016, resigned.
- On March 20, 2024 **Joshua Montañño**, who started at APD January 2005, resigned.

- On May 2, 2024 **Daren DeAguero**, who started with APD in 2009, resigned.
- On May 9, 2024, **Matthew Trahan** was placed on paid leave as the investigation plays out. Trahan has been with APD since 2006, was with the DWI unit from 2014-16 and recently worked as a detective.
- On July 30, 2024 APD Officer **Neill Elsmann**, who had worked in the DWI unit within the past several years, resigned before returning to work from military leave.
- On August 1, APD announced that it fired **Mark Landavazo**, the APD Commander of Internal Affairs for Professional Standards, who started with APD in 2007 and was with the DWI unit from 2008 through 2013.
- October 16, Deputy Commander **Gustavo Gomez** placed on paid administrative leave. Gomez was with the DWI unit from 2010 to 2013
- On January 24, 2025 APD announced they placed officers **Matthew Chavez** and **Lt. Kyle Curtis** on paid leave.
- On February 28, **Lt. Kyle Curtis** announced his retirement amid being targeted in the Internal investigation involving DWI arrests.
- **Timothy McCarson** retired from the Albuquerque Police Department in 2022 and he has been implicated in the DWI scandal. The last week of January, 2025, the FBI asked that he be added to the [Bernalillo County District Attorney's Office's](#) Giglio list, which classifies potential court testimony as unreliable.
- On February 24, Bernalillo County Sheriff John Allen announced that BCSO **Deputy Jeff Hammerel** was immediately placed on administrative leave *after* it was announced he was being investigated for being a part of the bribery and conspiracy scandal.
- On February 14, the New Mexico State Police announced it placed Sgt. Toby LaFave on administrative leave after he was implicated by the FBI as accepting bribes in the DWI Enterprise to dismiss cases. Sgt. Toby LaFave is on paid leave as the agency does its own internal investigation into allegations. LaFave was featured for years in state ENDWI campaigns and was referred to as the DWI King. LaFave, who joined State Police in 2012, said in an online video that he has made 3,000 arrests during his 20 years in law enforcement. Court records show LaFave has filed at least 1,300 felony and misdemeanor DWI cases from 2009 to February, 2025. Of the 31 DWI cases where LaFave was the arresting officer and Clear was the defense attorney, 17, or 57%, were dismissed by the

courts. https://www.abqjournal.com/news/article_97483524-eb17-11ef-9c15-8320a7b16191.htm/

Federal charges have been filed against Thomas Clear, III and his paralegal Ricardo “Rick” Mendez, and both plead guilty as charged.

Three former APD Officers have been charged and plead guilty as charged.

Clear has been suspended from the practice of law and his law offices forfeited.

All defendants charged face up to 130 years in prison.

Civil rights law suite has been filed by the ACLU against the city, APD Chief Medina and former APD Officers charged. The Civil Complaint is a 6 count, 17-page lawsuit filed in the Second Judicial District CourtThe 6 counts allege:

1. **Unlawful Detention and Arrest charged against the city.**
2. **Malicious Abuse of Process by the city.**
3. **Deprivation of Due Process of Law by the city.**
4. **Malicious Abuse of Process by the City**
5. **Negligent Hiring, Training, Supervision, and Retention by the city.**
6. **Racketeering charged against the former APD Police Officers named and attorney Thomas Clear III and Clear’s paralegal Ricardo “Rick” Mendez.**

U.S. ATTORNEY ALEXANDER UBALLEZ FIRED

In a press release dated Friday, February 14, Valentines Day, the New Mexico Department of Justice announced U.S. Attorney Alexander Uballez had resigned at the request of President Donald Trump. Uballez said he received notice of his firing by the Trump administration in his personal email account on President’s Day, Monday, February 17 in the afternoon. His firing came after he was stripped of his government cellphone and computer access on February 14 without prior notice nor explanation. He alerted the U.S.

Department of Justice of the lock out but received ***“no guidance.”*** Speaking on the lockout, Uballez said he had ***“never heard of this happening before.”*** Uballez is among more than 20 other U.S. Attorneys who were asked to step down and who were appointed by President Joe Biden. First Assistant U.S. attorney Holland Kastrin will serve as acting U.S. attorney until President Trump nominates a successor. The Trump nominee will need to be confirmed by the Senate. There is no word on who the Trump administration will nominate as the next U.S. Attorney for New Mexico.

Children’s Court

Children’s Court is established in each of the 13 Judicial Districts in the state with the Children’s code establishing Court’s known as the Children’s Court. The Children’s Court jurisdiction is not exclusive to criminal charges filed against a child. The court has exclusive original jurisdiction of all proceedings under the Children’s Code in which a person is 18 years of age or older and was a child at the time the alleged act in question was committed or is a child alleged to be:

1. A delinquent child.
2. A child of a family in need of court-ordered services or a child in need of services.
3. A neglected child.
4. An abused child.
5. A child subject to adoption; or
6. A child subject to placement for a developmental disability or a mental disorder.
7. The court has exclusive original jurisdiction to emancipate a minor.

CHILDREN’S CODE IN A NUTSHELL

State law establishes the purpose of the Children’s Code to be as follows:

To provide for the care, protection and wholesome mental and physical development of children coming within the provisions of the Children’s Code and then to preserve the unity of the family whenever possible. A child’s health and safety shall be the paramount concern. Permanent separation of a

child from the child's family, however, would especially be considered when the child or another child of the parent has suffered permanent or severe injury or repeated abuse. It is the intent of the legislature that, to the maximum extent possible, children in New Mexico shall be reared as members of a family unit;

The Children's code defines an **"adult"** as a person who is 18 years of age or older and defines a **"child"** as person who is less than 18 years old and the Children's Code deals exclusively with the prosecution those who are less than 18 years of age. There is a sperate and distinct legal process from what is done for adults under the Children's Code to charge a child with crimes. **Petitions are filed charging a child as a "Delinquent Offender" and in need of supervision and once adjudicated delinquent by the court, the child is placed on probation with terms and conditions imposed and enforced by probation authorities.**

Petitions or complaints are filed charging a child as "Youthful Offender" or "Serious Youthful Offender" and in such cases the child is afforded all the rights of an adult including representation by and attorney, due process of law and a jury trial with rights of an appeal.

In all cases begun pursuant to the provisions of the Children's Code, when a child is taken into custody, the child must be released to the child's parent, guardian or custodian and a child subject to the provisions of the Children's Code is entitled to the same basic rights as an adult. Arrests of a child are also handled differently as is incarceration.

Children charged with a crime are divided into 3 distinct categories under the Children's Code according to the crimes committed. Those categories are Delinquent Offender, a Youthful Offender and a Serious Youthful offender.

A **"Delinquent Offender"** is a delinquent child who has committed a **delinquent act** and who is subject to **juvenile sanctions only** and who is not a **youthful offender** or a **serious youthful offender**.

"

A “**Delinquent Act**” is defined as an act committed by a child that would be designated as a crime under the law if committed by an adult, not including the crime of prostitution ... and includes the following:

(1) any of the following offenses pursuant to municipal traffic codes or the Motor Vehicle Code ... :

- driving while under the influence of intoxicating liquor or drugs.
- failure to stop in the event of an accident-causing death, personal injury or damage to property;
- unlawful taking of a vehicle or motor vehicle.
- receiving or transferring of a stolen vehicle or motor vehicle.
- homicide by vehicle.
- injuring or tampering with a vehicle.
- altering or changing of an engine number or other vehicle identification numbers.
- altering or forging of a driver’s license or permit or any making of a fictitious license or permit.
- reckless driving.
- driving with a suspended or revoked license; or
- an offense punishable as a felony;

(2) [B]uying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in the presence of the child’s parent, guardian, custodian or adult spouse.

(3) ... [T]he illegal use of a glue, aerosol spray product or other chemical substance;

(4) [A] violation of the Controlled Substances Act

(5) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child;

(6) ... unauthorized graffiti on personal or real property;

(7) [A] violation of an order of protection issued pursuant to the provisions of the Family Violence Protection Act

(8) trafficking cannabis

(See 32A-2-3. Definitions, Delinquency Act)

A **“Youthful Offender”** is defined as a delinquent child subject to adult or juvenile sanctions who is 14 to 18 years of age at the time of the offense and who is adjudicated as committing at least one of the following offenses (**statute citations omitted**) :

- **second degree murder**
- **assault with intent to commit a violent felony**
- **kidnapping**
- **aggravated battery**
- **aggravated battery against a household member**
- **aggravated battery upon a peace officer**
- **shooting at a dwelling or occupied building or shooting at or from a motor vehicle**
- **dangerous use of explosives**
- **criminal sexual penetration**
- **robbery**
- **aggravated burglary**
- **aggravated arson**
- **abuse of a child that results in great bodily harm or death to the child**

(Delinquency Act , 32A-2-3 , Definitions with citations,)

A **“Serious Youthful Offender”** is a child 15 to 18 years of age who is charged with and indicted or bound over for trial for first degree murder. Note that there are no other crimes other than first degree murder and the child is sentenced as an adult for the crime.