

Legal Update for NM LAW ENFORCEMENT (2024-2025)

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We're going to start on a high note. We begin with some very good news: almost overnight, NM (because of oil and natural gas) became a very wealthy state. Sales from cannabis (one billion dollars, \$75 million in taxes) have also done very well.

The oil and natural gas money led to billions of dollars in unexpected money. Senator George Munoz called it a "once-in-a-century" opportunity. NM is doing many things, including free college for everyone.

More good news: "defund the police" never came to NM. Instead, the opposite is true: a lot more money for agencies and police officers.

Before we talk about case law and legislation, we're going to talk about new trends and a two-step program to improve law enforcement in New Mexico.

A TWO-STEP PROGRAM TO HELP IMPROVE LAW ENFORCEMENT IN NEW MEXICO

For an agency to improve, it must first evaluate itself. As one person said, "if you can't measure something, you can't manage it nor can you change it."

This is a two-step process. First, an external evaluation: how many cases sent to the DA's Office are being prosecuted? Second, an internal evaluation: how many cases are being solved?

FIRST STEP: (External) The importance of Law Enforcement Tracking Cases

In NM, too many cases are dismissed! It's time to ask some questions:

What happens to a case after an arrest? Was there a plea bargain? Was it dismissed?

If the great majority of cases are prosecuted, that's good. If not, that's bad. But if we don't know what's happening to cases, we have a problem.

We're now learning that quite a few cases are being dismissed. For example, the DA's Office in Bernalillo County wanted to know how many of its misdemeanor shoplifting cases were dismissed in 2023. The answer: **85%!**

In 2019, the last year before COVID, NM did a study to see how many misdemeanor DV cases were being dismissed in the magistrate courts of NM. The answer: **93%!**

A number of years ago the DA in Bernalillo County said we needed to get rid of catch-and-release (also known as bail reform). Supreme Court did a study of people arrested in Bernalillo County and found the **majority** had not been prosecuted!

In 2024 there was an APD-DWI scandal in Albuquerque. A DWI officer would not show up for court and the case was dismissed. People wondered how this could go on for so long.

It turns out APD had lost track of the number of cases dismissed in Metro (magistrate) Court. If an officer had twenty or thirty DWI cases dismissed, no one knew about it! (In recent years law enforcement in Bernalillo County has a dismissal rate of **approximately 30%** for DWIs.)

FIND THE PROBLEM, FIX THE PROBLEM

Recommendation: Make every effort to get with the DA's Office to find out **how many** cases are dismissed. Next, try to determine **why** a case is dismissed. Who is responsible? The Police? Prosecution? Is this a training issue? What do we need to do to fix the problem?

How NM compares to other states.

- Became the most violent state in the country. Louisiana #2. (US News & World Report, May 9, 2024: NM most dangerous state)
- Regained title as #1 in the country for drug death overdose. KRQE, May 5, 2023.
- Moved up to #1 for uninsured drivers in the United States. (Car Insurance. Org: NM has 29% uninsured drivers, Mississippi has 28% uninsured drivers.)
- NM tops list for pedestrian deaths. KRQE, July 3, 2023.

Note: These are stunning statistics and we in law enforcement need to look for answers.

SECOND STEP: (INTERNAL) – HOW MANY CASES ARE BEING SOLVED?

What is our clearance rate? If we're not solving cases, we need to look for solutions.

Too many murder cases are not being solved. There are hundreds of "cold cases" in NM. What can law enforcement do differently?

Do we need to put more money into forensics (DNA, NIBIN, etc.)? Should we hire retired police officers to investigate cases? Drones? Shot spotter? More cameras?

Too many rape cases are not being solved. Are we testing rape kits quickly enough? Should we be looking more into DNA? **Solving** homicides and rapes **reduces** homicides and rapes.

As law enforcement moves forward, we need to remind ourselves of the importance of solving cases.

News item: A 'coin flip': Nearly half of US murders go unsolved.

In the 1970s, police solved about 7 of every 10 murders. In 2020, they solved only about half. CBS, June 29, 2022.

The importance of investigators and technology:

APD announced they were solving more homicides. Homicide investigators increased from nine to sixteen and more technology is being used. That included a Real Time Crime Center, License Plate Readers, digital intelligence, drones, Shot Spotter, etc. KOB, March 21, 2024.

News item: Las Cruces to build Real-Time Crime Center. 1.1 million dollars. KIVA, May 6, 2024.

News item: New Ballistics testing machines coming to NM

NIBIN can track shell casings. Now in Albuquerque & Santa Fe, it will go to Farmington, Gallup, Las Cruces, Roswell. Cost: one million dollars. KRQE, May 7, 2024.

News item: Rapid DNA test part of public safety package for AG

AG Raul Torrez: "According to the latest data from the FBI, **roughly 75% of violent crimes in NM are not solved.**"

DNA backlog is 6-12 months and growing. Farmington Police Chief Hebbe, President of the Chiefs Association: "For our detectives, it's frustrating and demoralizing."

Rapid DNA, if the legislature approves funding, would be in regions across the state where larger departments would share with smaller ones. Initial cost is \$220,000, follow-up costs are \$30,000-\$40,000 a year. [KOAT](#), May 16, 2024.

There is another reason to do better investigations: the end of qualified immunity!

New Mexico was one of the few states to end qualified immunity . . .

Qualified immunity was created by the US Supreme Court. 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.

In NM, the officer is not financially liable; the agency will pay.

News item: Governor MLG signs **Civil Rights Act** into Law

Governor MLG: "New Mexicans are guaranteed 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. (no more qualified immunity).

This includes health care workers and ADA's. Many doctors have left NM and often ADAs are reluctant to give legal advice to police officers.

Something that wasn't expected: If an **investigation** is not done right, a lawyer may sue.

News item: Local family **sues** APD, claims mistakes in double homicide.

Lawsuit: "two people could be alive (no interrogation of primary suspect done) if it weren't for a string of investigative mistakes." Violation of NM Civil Rights Act. [KOB](#), November 9, 2022.

News item: **Lawsuit** sheds light on 2018 rape case involving child.

Lawsuit says negligence led to suspect being able to plead to much lesser charges. Santa Fe PD lost rape kit. Family said civil and constitutional rights violated. [KRQE](#), November 10, 2022.

New item: Stabbing victims **sue** APD, City of Albuquerque

A man stabbed eleven (11) victims and eight (8) of them are suing. They argue APD did a poor investigation: failed to get proper witness identification and secure footage at multiple locations. They want policy changes and better training for officers. [KRQE](#), March 14, 2024.

Even the highly respected FBI can be sued for a poor investigation.

News item: US to pay \$139 million because of FBI neglect in sexual assault allegations

US will pay because FBI "grossly mishandled allegations" of sexual assault against Larry Nassar, the sports doctors for female gymnasts. [KOAT](#), April 23, 2024.

A new trend: HOW TO FIND A STATE STATUTE

Until very recently, officers were given a book that contained the state statutes. In fact, there's an easier way to find a state statute:

NMOneSource.com (it's free!)

Go to the link that says: **Current New Mexico Statutes, Annotated, 1978.**

The word "annotated" is a summary of recent cases that apply to a particular statute.

Every so often, the state legislature renumbers all the statutes. The last time this happened was **1978** which is why one sees "1978" when officers note a particular statute. (**NMSA 1978**)

For law enforcement, the two chapters we use the most are **Chapter 30 (Criminal Code)** and **Chapter 66 (Traffic Code).**

Another advantage of this source (as compared to a book) is that it is up-to-date.

THE CHANGE IN POLICING: WHAT GEORGE FLOYD AND VIETNAM HAVE IN COMMON

In the 1960s and 1970s, there was a lot of hostility towards the military. In Vietnam, the United States lost its first war. It was a wake-up call for the military.

Fortunately, the military, from within, decided to change. In 1991, we saw the results with the stunning victory in Iraq (Operation Desert Storm).

2020 was the year of COVID (March) and George Floyd (May). Resentment and hostility towards law enforcement was strong. It reminded one of the military in the 1970s.

But, as with the military, law enforcement since 2020 began making major changes.

SOME MAJOR CHANGES FOR LAW ENFORCEMENT

News item: Poll finds most Americans want police reform.

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

Homeless: The way law enforcement works with the homeless has totally changed. Long overdue!

Instead of police officers, firefighters and social workers are used when possible. (The name of Albuquerque Fire Department was changed to Albuquerque Fire Rescue.)

News item: US homelessness up 12% to highest reported level ever

NM had the 2nd biggest increase in homelessness, just behind New Hampshire. US gov't survey. KRQE, December 15, 2023.

Today, the relationship between police officers and the homeless is more positive. For the public and police, the attitude is: "This is a social problem, not a police problem."

An important legal case about the homelessness

The US Supreme Court will soon make a decision on [Grants Pass v. Johnson](#). Grants Pass (Oregon) wants to bar people from sleeping or camping in a public area. Some courts have held a city can't do that if shelter space is lacking. Oral arguments were heard in April, 2024.

Regardless of what the US Supreme Court says, the NM courts can give more rights to citizens and may have a different interpretation.

Mentally Ill: The way law enforcement works with the mentally ill has changed. Long overdue!

Police officers, when dealing with the homeless/mentally ill, too often would get involved in an officer-involved shooting. Now, instead of police officers, firefighters and social workers are sent when possible.

Pan-handling: The way law enforcement works with panhandlers has changed. Long overdue!

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

Panhandling is here to stay. The ACLU said the ruling was a victory for free speech. [Albuquerque Journal](#), July 19, 2019. (In 2021, the Court of Appeals upheld the District Court.)

Apparently not everyone at APD got the word and officers continued to arrest panhandlers. ACLU sued and APD made another "donation" to the ACLU.

Sex workers/human trafficking: Another major change for law enforcement. Long overdue!

We now charge the "pimp" with human sex trafficking and try to help the sex worker.

Stop & Frisk: Stop & Frisk has changed. Long overdue!

Stop & frisk had been used as a crime control measure (some called it "proactive policing.") Its use was declared unconstitutional in New York City and in other cities. **Recommended video:** YouTube: "This Week's 'Stop & Frisk' backlash."

For Albuquerque, good news! Of the twenty cities DOJ was monitoring in 2024, Albuquerque was the **only** city found not to have profiling or abuse of stop and frisk.

STOP AND FRISK

- A stop and frisk is permitted when there is reasonable suspicion a person is armed and dangerous, a threat to an officer.
- 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.
- The expression "Officer Safety" will not justify a stop and frisk; an officer should articulate or give reasons why a stop and frisk was done.
- Stop and frisk should not be used to control or reduce crime.

Pursuit policies: Law enforcement and pursuit policies have changed. Long overdue!

News item: "Police Departments have long resisted change, insurance companies are successfully forcing them to change."

The article mentions how insurers tell departments to change policies (foot and vehicle pursuits, etc.) or face possible cancellation or a steep rise in insurance.

The article noted that “the risk pool that insures 30 of the 33 counties in NM saw coverage shrink while rates shot up 50% over the past two years. [Washington Post](#), September 15, 2022.

[News item: Insurance company plans to drop coverage in Santa Fe.](#)

Current carrier ends coverage. [Santa Fe New Mexican](#), January 26, 2024.

[News item: Panhandler who fell and broke neck awarded \\$100 million.](#)

Officer chased a 65-year-old panhandler in Chicago. He fell and hit his head on concrete and was paralyzed. The was later reduced to \$40 million dollars. [USA Today](#), August 29, 2022.

A new trend: DUTY TO INTERVENE

Duty to intervene in NM is a new requirement for officers.

Officer Derek Chauvin, who held George Floyd down, is serving over twenty years in prison. The three officers nearby when George Floyd died are also in prison for failure to intervene.

When George Floyd happened, in 2020, NM did not have a duty to intervene law. It was only in 2023 that NM legislators passed the following law:

“Any officer present and observing another officer using force that the officer believes is excessive **shall intervene to prevent it**, unless doing so would result in imminent harm to the officer or another individual.”

“The officer **shall report the incident** to their direct supervisor **no later then the end of their shift.**” An officer who fails to intervene shall face discipline.

In some states, such as Colorado, failure to intervene is a criminal offense and officers have been prosecuted. It’s not a criminal offense in NM but may become so in the future.

A new trend: END OF CHOKE-HOLDS

Note: There is a difference between a “choke-hold” and “vascular restraint.”

New Mexico has not taught choke-holds for years. It surprised many people when a Las Cruces Police Officer in 2022 chased someone and said, “I’m going to choke you out, bro!” The suspect died.

The officer was terminated and charged with second degree murder. Las Cruces paid the family \$6.5 million dollars. **Note: After the state presented its evidence, the judge said there wasn’t enough evidence for 2nd degree murder and dismissed the case.**

NMSA 1978, Section 29-7-4.4: use of force **training** shall include the elimination of vascular neck restraints. Became law in 2022.

NMSA 1978, Section 29-7D-3: “shall not use a vascular neck restraint, unless a person’s attack poses a threat of imminent harm to the officer or another person . . .” Became law in 2023.

A new trend: TRAINING REQUIREMENTS FOR OFFICERS

In 2022, the state legislature added training requirements for officers. NMSA 1978, Section 29-7-4.4:

Training requirements for the basic academy and in-service training **each year** for certified officers includes (a) crisis management, (b) dealing with individuals experiencing mental health issues, (c) methods of de-escalation, (d) peer-to-peer intervention, (e) stress management, (f) racial sensitivity, (g) reality-based situational training, and (h) use of force training that includes the elimination of vascular neck restraints.

An old trend: Knock and Announce

In the 1990s the Court of Appeals in NM said an officer must knock and announce before serving an arrest or search warrant. Knock and announce did not become an issue in New Mexico.

THREE IMPORTANT NEW LEGAL CASES

We are going to talk about a number of legal cases but there are two new ones we need to bring to your attention: (1) a Miranda case and (2) a towing (inventory search) case.

Miranda

In San Juan County, a suspect was told “you have the right to a lawyer, if you cannot afford one, one will be provided to you by the court.” We have been doing that for many years.

But the law on Miranda in NM has changed! **That Miranda card you have may be obsolete!**

The Court of Appeals said this wasn’t enough; an officer has to advise a suspect that they have a right to a lawyer **prior** to and **during** questioning. His conviction for CSP was reversed. State v. Atencio (2021).

News item: Evidence tossed in Muslim killings case

District Court found Albuquerque Police did not inform Defendant he had a right to a lawyer **prior** to questioning. Albuquerque Journal, December 21, 2023. (Fortunately, there was enough evidence and he was found guilty – March, 2024).

A few more Miranda cases . . .

The Miranda two step . . .

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

Why wouldn’t he? He had just confessed (without Miranda) to the officer. This is an old police tactic, known as the Miranda two-step, and the courts don’t like it.

Supreme Court held this was a continuing confession, interrupted by a warning. Confession inadmissible. **A suggestion:** tell a suspect, after reading Miranda, that anything previously said will not be used against him or her. State v. Filmon V. (2018).

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 but Supreme Court said the answer was admissible under the public safety exception to Miranda. [State v. Widner \(2020\)](#).

For investigators: Make sure we don't have a false confession in New Mexico!

VIDEO: The Central Park Five: A Timeline. YouTube.

Towing cases - Inventory

Some new cases that change how we do an inventory search!

An inventory search or tow inventory has always been one of the exceptions to the requirement of getting a search warrant. It helps to recover a lot of drugs and stolen property. However, some things are beginning to change.

Facts:

In Farmington, a vehicle was towed which had a locked safe in it. While doing an inventory, the officer got a key to open the safe and found drugs.

The Court of Appeals said the driver had an expectation of privacy in the locked safe and the officer should have gotten a search warrant. Drugs suppressed. [State v. Jim \(2022\)](#).

Facts:

In Lincoln County, in a tow inventory, officer opened a zipped locked bag and found drugs. The Court of Appeals said people have an expectation of privacy in a closed container or bag. Drugs suppressed. [State v Sanders \(2024\)](#).

This is a new policy on Inventory Searches from the Santa Fe Police Dept. (March 28, 2024):

Effective immediately, the following changes to procedure are in effect and will remain in effect until further notice; the policy will be updated in the coming months.

- Inventory searches will not include the search of any closed containers unlocked or locked, that are located inside a vehicle. For now, this only applies to independent storage containers located within the vehicle **and does not apply** to the glove compartment, middle console, or other “containers” within the vehicle constructed by the manufacturer.
- Storage containers are to be left in place and will remain with the vehicle. Officer will note, i.e., “black zippered bag with unknown contents” on the vehicle inventory form.
- It should be noted, this does not preclude the officer from establishing probable cause for any closed, unlocked or locked, containers inside a vehicle and obtaining a search warrant. (Our thanks to Matthew Champlin, Deputy Chief of Police for the Santa Fe PD.)

NOTE:

For now, the case law talks only about bags, locked and unlocked, and policies should probably be limited to that.

Most likely, in the near future, an officer will find drugs in the middle console or the glove compartment or the trunk and an attorney will argue “expectation of privacy.” At that time the Court of Appeal or Supreme Court will give us more guidance on this.

Search Incident to Arrest

We’re mentioning search incident to arrest because it’s similar to a tow inventory.

In Clovis, Defendant was arrested in an alley. A purse was hanging from her shoulder. Officer put handcuffs on her, checked her purse, and found drugs. He said it was a search incident to arrest.

The Supreme Court disagreed. They said a search incident to arrest is a search of a person or the area in their immediate control. The Defendant no longer had ready access to her purse. Her conviction was reversed. State v. Ortiz (2023).

Note:

In some ways this case is similar to new cases about a tow inventory or inventory search. Suppose an officer decides at the jail or police station to do an “inventory” of her purse. Will the defendant (in a future case) argue that she had an “expectation of privacy” in her purse?

FIELD OFFICERS AND TRAFFIC CASES

When it comes to vehicles, there is a difference between the federal courts and NM. A state can give more rights to individuals than the US Supreme Court and NM is one of those states.

PRIOR TO A TRAFFIC STOP

AGGRAVATED FLEEING – Does an actual person have to be endangered?

When an offender doesn’t stop for an officer, the charge is fleeing. It becomes aggravated fleeing when other people are put in danger.

“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).

Facts:

In Las Cruces, a NM State University Police Officer was on 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.

Supreme Court held the statute doesn’t mean another specific person has to be put at risk. Instead: Is the driving so dangerous that another person could have been hurt? His conviction was upheld. State v. Vest (2021).

AGGRAVATED FLEEING – Felony Murder?

Facts:

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 (which mean First Degree Murder, Life = 30 years, no good time) but this one did. Supreme Court sent case back to District Court. [State v. Groves](#) (2020).

AGGRAVATED FLEEING – Was the officer in uniform? Marked vehicle?

In 2020, the Supreme Court of New Mexico looked at another aggravated fleeing case. The statute at that time said Aggravated Fleeing required the officer stopping the vehicle to be **in uniform** and in a **marked** vehicle.

The Supreme Court sought to answer two questions: (1) when is an officer in uniform, and (2) what is a “marked” vehicle?

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

Was the officer in uniform? For the Supreme Court, this was an easy question: **NO**. A badge is not clothing nor was he wearing a uniform (dress shirt and tie).

Was the officer in a “marked” vehicle? **NO**. The deputy’s vehicle, although it had flashing lights and a siren, had no letters on the vehicle to indicate it was a “marked” vehicle.

The Supreme Court, **based upon the law in 2020**, said it was not a “marked” vehicle and reversed the conviction. [State v. Montano](#)

For law enforcement, a big surprise. Across NM, agencies had to put some kind of sign on their “unmarked” vehicles to make them “marked” vehicles.

In 2022, NM state legislature to the rescue!

Fortunately, in 2022, the state legislature came to the rescue and changed the law. They deleted the words “marked vehicle” and in its place put “**authorized emergency vehicle.**” The Chief or Sheriff can decide what kind of marking (if any) to put on their vehicles.

PRETEXT STOPS

A traffic stop is a “pretext stop” if it is made “not to enforce the traffic code, but to conduct a criminal investigation unrelated to the driving.”

The US Supreme Court, reviewing the Fourth Amendment, has upheld “pretext stops” and they are permitted in many states. [Whren v. United States](#) (1996).

However, New Mexico, relying upon the NM state constitution, does not permit a “pretext stop.” [State v. Ochoa](#) (2008).

Sometimes NM officers are assigned to a federal task force and become federal TFOs (Task Force Officers). Since these cases are likely to go to federal court, NM officers follow federal law.

Facts: Officer Jarrott, a NMSP officer in southern NM, was asked to stop a vehicle to get the driver's identity. He was told, upon receiving a BOLO, that he needed probable cause to stop the vehicle.

Officer Jarrott told the driver that the reason for the traffic stop "was that the window tint was too dark." It was a "pretext stop" and in state court would have gone nowhere. In federal court, it was OK.

It is unclear whether Officer Jarrott was a member of a federal task force in this case; he was unaware of why he was making the stop.

This raises a question: what should a NM officer (who is not a member of a federal task force) do when he or she is asked to make a "pretext stop" for a federal agency?

This is the kind of decision each agency must make for its officers. It could be argued that since these cases go to federal court (which permit a pretext stop), it should be OK.

Some agencies, however, may not want their officers to do something (making a pretext stop) that normally they are prohibited from doing.

REASONABLE SUSPICION

Often a one paragraph definition is used to define reasonable suspicion or probable cause. To better understand these terms, it's helpful to look at new cases as they come out.

REASONABLE SUSPICION – CRACKED WINDSHIELD

A person who lives near the War Zone of Albuquerque had a **crack** in his windshield and was trying to work something out with his insurance company to get it fixed. In the meantime, he was stopped by the APD and questioned about it. This happened four times!

It is a penalty assessment for a person to drive any vehicle in such **unsafe** manner as to endanger any person . . .

In Dona Ana County, a deputy stopped a vehicle with a **cracked** windshield. The deputy felt that was enough for reasonable suspicion (**not true**). It has to **obstruct** the vision enough to be a safety hazard, to be in an **unsafe condition**. State v. Munoz (1998).

REASONABLE SUSPICION – TAIL-LIGHT NOT IN PERFECT ORDER

Facts:

In 2021, the Supreme Court of NM said a tail-light not in perfect working order (a bulb might be out but one could still see the light) is not reasonable suspicion to stop a vehicle. State v. Farish.

REASONABLE SUSPICION – BRIEFLY TOUCHING THE YELLOW LEGAL LINES

A NMSP officer on 1-40 near Grants saw Defendant's vehicle pass two semi-trucks. The driver briefly touched the yellow line and was stopped. Officer, **looking for drugs**, had a long conversation with the driver and got consent to search. Meth found.

The Court of Appeals said briefly touching the yellow line of the left passing lane, as Defendant was passing two semis, was not reasonable suspicion. Trafficking charges dismissed. [State v. Valenzuela \(2017\)](#).

REASONABLE SUSPICION – WE NEED MORE THAN A HUNCH!

Facts:

In Clovis, a NMSP officer with over twenty years watched for drug activity at a gas station. A person got in the backseat of a vehicle, stayed a few minutes, and left. A few minutes later, the same thing happened. Supreme Court said this was reasonable suspicion to stop the vehicle. [State v. Martinez \(2020\)](#).

REASONABLE SUSPICION – HOW MUCH IS NEEDED?

Facts:

In McKinley County, a deputy saw Defendant driving. Three months before, he had two encounters with Defendant having a suspended/revoked license. A month before, on the police radio, it was confirmed again.

Court of Appeals held that **there were enough facts** for reasonable suspicion to stop the vehicle. [State v. James \(2017\)](#).

PROBABLE CAUSE – NOT ENOUGH!

News item: APD officer charged for disabled man's arrest.

AG felt there wasn't probable cause to arrest a person for shoplifting. Officer was charged with false imprisonment, a fourth-degree felony. [KRQE](#), July 17, 2023. ([good video](#))

SPOILER ALERT!!!! **The rules on asking ID from people walking on the street have changed!!!!**

STOPPING PEOPLE ON THE STREET TO ASK FOR ID

Facts:

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 in case a crime was later committed.

Defendant had a warrant. During the search, found meth. The Court of Appeals said there was no reasonable suspicion to detain the person. Evidence suppressed. [State v. Ramey \(2020\)](#).

News item: [NMSP to pay \\$300,000 settlement after detaining disabled woman.](#)

Three ladies were looking at horses in a field near the State Pen in Santa Fe. NMSP officer asked for their names which they gave. Next, he wanted their ID but one lady refused. She was handcuffed and placed on the ground for 45 minutes.

The District Court held there was no reasonable suspicion to detain her or to demand ID. She sued and got \$300,000. [Santa Fe New Mexican](#), September 21, 2020.

Facts:

A person was photographing near an oil refinery in Artesia, NM. He refused to provide ID and was arrested. The case went to the federal appeals court in Denver, Colorado (the 10th Circuit) where they ruled against the officer.

The officer said (footnote 7): “I thought if I was dispatched to a call for service, I was within my rights to demand ID. Based on research, I learned that I need reasonable suspicion to support an arrest for failing to produce ID.” [Bustillos v. City of Artesia \(2024\)](#).

MAKING A STOP WHEN ONE DOES NOT HAVE A CROSS COMMISSION

Suppose you're from southern NM and driving to Santa Fe or Albuquerque. You're in your police vehicle and notice the vehicle in front of you is going at a high speed and weaving back and forth. This could be a drunk driver! What would you do?

A 2009 Supreme Court case, [State v. Slayton](#), does not favor a stop, but others may see it differently. See what your policy says or get a legal opinion on this. You can intervene if it is a criminal offense or felony offense but that depends upon your policy.

DURING A TRAFFIC STOP

SPOILER ALERT!!! The rules on what to ask drivers or passengers on a traffic stop have changed!

ASKING PASSENGERS FOR ID

When can an officer ask a passenger for his name and DOB? Just before dawn, in Clovis, an officer stopped a vehicle with a broken tail-light. The driver didn't have a license and lied about his age. In the backseat was a partially open back-pack that had bolt-cutters, gloves, and a camouflage mask that went over the entire head.

The officer asked the passenger for ID to see if he could drive. He didn't have a license. Was it appropriate to ask the passenger for his ID? In this case, the Supreme Court said **yes**.

The officer had investigated nearly 100 burglaries and knew cutting tools were often used in burglaries. Also, the driver didn't have a driver's license. Defendant was convicted of possession of burglary tools. [State v. Vasquez-Salas \(2023\)](#).

Note:

Suppose it's a routine traffic stop. It's legal to ask a passenger for ID but they are not required to provide it.

Indeed, the case law seems to indicate that an officer almost has to justify why a passenger is being asked for their ID in NM.

Unless a passenger is a witness or appears to be hiding something, many officers no longer ask passengers for their ID in NM. Even a witness, however, may refuse to cooperate or provide ID.

ASKING QUESTIONS OF A DRIVER ON A TRAFFIC STOP

Facts:

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

The officer asked to search his vehicle and did a pat down. Found meth. The Court of Appeals held the questions were not reasonably related to the stop. The evidence, the meth, was suppressed. State v. Tuton (2020).

Facts:

A Ruidoso Downs officer stopped a vehicle for a possible forgery. A passenger in the front seat was the suspect. The suspect 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, in this case, were appropriate: the officer had just found drugs on the passenger and the officer wanted to search the vehicle, not the driver. Evidence admitted. State v. Funderburg (2008).

TELLING A DRIVER WHY YOU STOPPED THEM

News item: California police can no longer ask this at a traffic stop.

In California, officers no longer can say, “do you know why I pulled you over?” Instead, must state the purpose of the stop before asking any questions (unless something unusual comes up). If an officer wants to extend the investigation, they have to give the reasons why. This became state law on January 1, 2024. KRON – San Francisco, December 27, 2024.

In 2024, New York City passed an ordinance that requires NYPD officers to explain why they’re stopping someone on nearly every encounter they have. Must obtain apparent race, gender, and age of every person they question, even if they’re not suspected of a crime.

VIDEO: YouTube: What NYC’s new police transparency law means for NYPD officers and people they stop. NBC – New York. (2024)

The reason for these laws is to prevent a pretext stop where officers use a stop to look for a more serious crime (mainly drugs) unrelated to the stop.

A suggestion: may want to make it a habit to advise motorists in NM of the purpose of a stop to avoid the need for similar legislation.

VEHICLE STOP – PROFILING

VIDEOS:

BCSO settles race profiling lawsuit for \$100,000. [KRQE](#), February 11, 2020.

BCSO to pay thousands in 2017 racial profiling lawsuit. [KRQE](#), January 4, 2024.

RECOMMENDATION:

Do not turn a traffic stop into a drug stop unless there is strong evidence that drugs are involved.

Some good news: DOJ is in over twenty (20) cities. Albuquerque was the only city where the DOJ didn't find profiling or abuse of stop and frisk.

VEHICLE STOP – OPENING THE DOOR

Facts:

In Taos County, a NMSP officer stopped Defendant for speeding. Officer 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.

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

Facts:

In Albuquerque, an officer saw three people in a parked vehicle. The motor wasn't running. He opened the door and saw drugs. The Court of Appeals said no reasonable suspicion to open the door. Evidence (drugs) suppressed. [State v. Murry](#) (2014). **Note: There are times opening a door is acceptable. Examples: people appear to be hiding in the back seat, concern for your safety, etc.**

VEHICLE STOP – MARIJUANA IN NEW MEXICO

The odor of marijuana is not sufficient to search a vehicle for marijuana unless the driver is under the influence. NMSA 1978, Section 26-2C-25 (C)(1).

Marijuana is becoming more popular.

"Daily marijuana use outpaces daily drinking in US." [KOAT](#), May 27, 2024.

Is marijuana good for you?

CNN, Feb 28, 2024 – "The health risks associated with marijuana use."

American Heart Association: Marijuana is more likely to lead to heart problems and strokes. Marijuana is sometimes called "**the new tobacco**."

One of the arguments to legalize marijuana in NM was the perception that enforcement was directed more towards certain groups than others. NM has 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 cannabis to DPS to include . . . **the race** and **ethnicity** of a person. NMSA 1978, Section 26-2C-33.

BACKGROUND FOR THESE COURT DECISIONS – THE WAR ON DRUGS

In NM, in decision after decision, the courts have ruled against officers who find drugs or appear to be looking for drugs on traffic stops.

There is a reason for that; millions of Americans believe that their constitutional rights have been violated by the War on Drugs.

The War on Drugs reminds many people of Prohibition (1920-1933); it led to organized crime and a negative view of law enforcement.

Let's look on the War on Drugs. Has it been a success?

In 1970: 7,200 overdose deaths (This is when the War on Drugs began)

In 2019: 71,000 overdose deaths

In 2020: 92,000 overdose deaths

In 2021: 107,000 overdose deaths

In 2022: 108,000 overdose deaths (approximately 70% male)

In 2023: 112,000 overdose deaths (estimate) Source: CDC – March 21, 2024-KOB

Many people believe that “super meth” from Mexico in the 2010s led to a sudden, dramatic increase in homelessness. It's much stronger than the “old meth” that used to be made in the US. Two good videos:

YouTube: [How Super Meth is impacting America. February, 2023. \(about two minutes\).](#)

YouTube: [The Majority Report with Sam Seder: Why Meth today is more dangerous than ever. \(about six minutes\).](#)

[News item: Fentanyl leading cause of death for young people in US.](#)

The US Secretary of State Anthony Blinken spoke to 300 mayors and fentanyl is now the leading cause of death for Americans between 18 and 49. He said it was coming from China, going to Mexico, and then to the US. [KRQE](#), January 19, 2024.

[Fox News, March 11, 2024: FBI Director warns of ‘very dangerous threats’ at border. “Smuggling network with ‘ISIS’ ties. He added they seized enough fentanyl last year to kill 270 million people.](#)

[A top military leader said 1,000 drones \(carrying fentanyl?\) cross the border each month.](#)

[News item: Oregon Governor signs a bill recriminalizing drug possession.](#)

In 2020, citizens voted almost 2 to 1 to de-criminalize hard drugs. It was a failure: Drug abuse soared. In 2024, the Governor signed a bill to recriminalize drugs. [PBS](#), April 1, 2024.

[News item: NM ranks as #1 state with worst drug use.](#) Source: WalletHub. [KRQE](#), May 5, 2023.

A study listed the nineteen worst counties (called Hotspots) for teen drug overdose deaths in the US **and Bernalillo County was one of them.** [UCLA Health Study](#), January 8, 2024.

[News item: Death rates for people under 40 have skyrocketed.](#)

Reason: Fentanyl. In 2018, West Virginia was #1; **in 2022 NM became, once again, #1.**
Source: Federal Center for Disease Control and Prevention. [Idaho Capitol Sun](#), September 6, 2023.

[News item: Cimarron High School bans backpacks.](#)

Rural NM is seeing an increase in drug use and vaping. [KOAT](#), February 27, 2024.

[News item: What wastewater testing reveals about NM High Schools](#)

Testing wastewater at high schools throughout NM on a single day had surprising results: heroin=0, fentanyl about 10%, but cocaine very popular. [KOB](#), April 4, 2024. **GOOD VIDEO**

MISSING PERSONS

In 2022, after publicity from native Americans in New Mexico, the legislature felt it was time to do something.

Tribal and non-tribal now coordinate more closely to locate missing persons.

What if you stop someone for speeding and find out you have a “missing person”? **ANSWER: It depends upon whether the “missing person” is a juvenile (under 18) or an adult.**

Juvenile –

A juvenile can be taken into protective custody by a law enforcement officer without a court order when the officer has reasonable grounds to believe that the child has **run away** from the child’s parent, guardian or custodian, is **involved in prostitution** or a **victim of human trafficking.** NMSA 1978, Section 32A-3B-3(A).

Time for a reality check: finding a place to take a juvenile to is not always easy.

[News item: NM sees fewer youths entering juvenile justice system.](#)

Between 2009 and 2022, references of youths into justice system dropped 76%, from 20,000 to 5,000 per year. [KRQE](#), June 30, 2023.

[News item: BCSO Sheriff and DA concerned about youth detention center.](#)

The D-Home, saying they are short-staffed and wanting a ration of 8 to 1, have been turning away juveniles, including those who commit violent offenses. [KOAT](#), March 15, 2024.

Adult –

It’s not a crime for an adult to be a “missing person.” May want to advise the person to call home and tell them you will be notifying their (home) law enforcement agency of where they are.

[News item: Cross-commissioning adds police services for Dine \(Navajo\)](#)

Five NMSP officers were sworn in. They can enforce criminal and traffic laws on the Navajo Nation. They also took a two-day course to become familiar with Navajo traditions. [Navajo Times](#), April 14, 2022.

DWI IN NEW MEXICO

In the 1980s and for many years, NM was #1 in the country for people killed by DWI. Between 350-400 were killed a year. Governor Richardson made DWI a priority and we made progress. NMSP: One hundred days and one hundred nights. Fatalities went down to 100-150.

Where do we stand today?

KOAT, December 22, 2023: [NM ranks **third** for drunk driving deaths.](#) (in 2023)

[News item: NM highest in nation for deaths due to alcohol](#)

Success in reducing DWI but NM has an alcohol problem. In 2020, five people died every day due to alcohol. No other state is even close to NM. Senator Cervantes: "We're not just worse, we're off the charts." [Albuquerque Journal](#), August 28, 2022.

[News item: NM ranks #1 for road rage shootings](#)

Study from 2018-2022. [KOAT](#), October 13, 2023.

In 2023, **auto insurance rates in NM went up 34%**, the 10th highest in the country. [Albuquerque Journal](#), May 3, 2024.

[News item: NM tops list of pedestrian deaths](#)

NM has had this title for a number of years. [KRQE](#), July 3, 2023. In March, 2024, Forbes magazine said Albuquerque had the most dangerous drivers in the country. Source: Governor's Highway Safety Association.

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 blood) and that her Fourth Amendment rights had been violated. Lawsuit permitted. [Gallegos v. Vernier \(2019\)](#).

Note: Can only draw blood in felony cases. NMSA 1978, Section 66-8-111.

DOMESTIC VIOLENCE IN NEW MEXICO

NMSA 1978, Section 31-1-7. Arrest without a warrant.

. . . 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** and has probable cause to believe that the person has committed an assault or battery upon a household member.

In NM, an officer has to be at the scene where domestic violence occurred to make a misdemeanor arrest of offender. What if the offender has left?

Supreme Court said an arrest can be made only if the offender is in “close proximity” or nearby. When this case (State Almanzar) came out in 2013, arrests for misdemeanor DV went down dramatically. The present system is not working; new ideas are needed.

Assault, Battery – Misdemeanor Arrest Rule

Previously, it was felt an officer could arrest for certain misdemeanors – assault, battery, public affray, criminal damage – only if they occurred in a bar. The Court of Appeals said these crimes do not have to occur in a bar but can occur anywhere for an officer to make an arrest outside of his or her presence. [State v. Veith \(2022\)](#).

If a person is a victim of a DV misdemeanor arrest or battery, an offender can be arrested only if the offender is in “close proximity.” Non-DV victims do not have this limitation.

In other words, a non-DV victim has more protection than a DV victim!

News item: Report: Funding fails to stop Domestic Violence

Law enforcement in NM in 2018 responded to 19,000 reports of domestic violence, roughly the same as 2014. [KOB](#), December 2, 2019.

New ideas are needed. A possibility: Dispatch could ask if weapons are involved. If not, and it’s a low-level DV, social workers or firefighters might be sent instead of police officers.

PROPERTY CRIMES IN NEW MEXICO

Facts:

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. Couldn’t prove intent. The Court of Appeals reversed conviction. [State v. Montoya \(2021\)](#).

Facts:

In Farmington, Defendant broke a window to a store and entered. He pulled out the cash drawer and threw money on the floor. The state charged burglary and breaking and entering.

Supreme Court said it was double jeopardy to charge both crimes for the same act. [State v. Begaye \(2023\)](#).

Facts:

In San Juan County, offender broke into a home. It was complete on the outside but needed work on the inside. It lacked electricity and water. Owner stayed in a small part of the house but was often gone to work in the oilfields.

The Court of Appeals said it was a “dwelling” and the break-in was a residential burglary. [State v. Shelby \(2021\)](#).

Aggravated Shoplifting

In 2023, two new crimes were created: **Aggravated Shoplifting** and **Organized Retail Crime**.

Aggravated Shoplifting: When a shoplifter assaults or strikes another with a deadly weapon to retain property or escape, it's a third-degree felony.

Organized Retail Crime: If one shoplifts (whether from one retailer or many) multiple times over a one-year period and the total value is over \$2500, and acts with others to sell, exchange or return merchandise, all involved can be charged with organized retail crime (2nd degree felony).

This makes it easier to go after the higher-ups and others who work behind the scenes.

For investigators: Make sure we get that photo array right!

Photos of suspects should be shown one after the other, preferably by someone who doesn't know who the suspect is. NMSA 1978, Section 29-3B (Accurate Eyewitness ID Act).

VIDEO: Teenage girl mistakenly identified as murder suspect. KOAT, December 9, 2019.

Also: Teen wrongly arrested, charged with murder, files suit against city. KOAT, December 4, 2020.

An Officer showed one photo and seventeen-year-old Giselle Estrada was wrongly identified. She spent a week in custody.

VIDEO: 60 Minutes – “Picking Cotton” (Almost half an hour but excellent videos.)

Eyewitness – Part I (12:46 minutes)

Jennifer Thomson identifies Ron Cotton as person who raped her. Goes to trial twice and is convicted. After eleven years, DNA clears him.

Eyewitness – Part II (13:01 minutes)

How photo arrays can be improved. A blind administrator and sequential pictures.

JUVENILE CRIMES . . .

A child arrested and detained for an alleged delinquent act may be temporarily held **in an adult jail** for no longer than six hours.

A child who is detained in an adult jail shall be placed in a setting that is physically segregated by sight and sound from adult offenders. NMSA 1978, Section 32A-2-4.1.

News item: Law Enforcement frustrated with NM Children's Code.

A person in a D-home, even though that person has turned 18, gets to stay there until sentencing. Out of 54 people at the D-home in Albuquerque, 27 are in for homicide. One of them, convicted of two murders but over eighteen, was still there.

He escaped but was caught soon. The Sheriff of Bernalillo County said laws like these in the Children's Code need to be changed. KOAT, May 28, 2024.

VIOLENT CRIMES IN NEW MEXICO

Facts:

In Albuquerque, two students argued in school. One went home, got his father's firearm, and killed the other student. The victim was Bennie Hargrove. This led to the following law in 2023: Negligently making a firearm accessible to a minor. NMSA 1978, Section 30-7-4.1.

Felon in Possession and Possession of Stolen Property – Double Jeopardy? (No)

A felon in possession of a firearm. The 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 firearm which may be stolen or not; a person who possesses stolen property may or may not be a felon. State v. Cummings (2018).

Facts: On a movie set in Santa Fe, an armorer handed a gun to Alex Baldwin who pointed it at the camera person. He fired, she died. Armorer convicted of Involuntary Manslaughter.

“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, an 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 the 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 “red flag” law has not been used very often.**

NEW MEXICO STATE LEGISLATURE – 2024 (Public Safety legislation)

At the legislature there were two very different points of view to reduce violent crime. In simple terms, **one side wanted stricter gun laws** and the **other side wanted stronger penalties** for people who use guns illegally.

The legislation that passed **relating to stricter gun laws** extended the waiting period to buy a gun from three days to seven days and prohibited, with certain exceptions (police officers, concealed carry, etc.) having a gun near a polling booth on voting day.

Proposed legislation to ban “assault” weapons and change the Red Flag law did not pass.

The other side **wanted stronger penalties**. For example, first degree murder is life (30 years) with no good time. Second degree murder, however, was 15 years with no good time.

Second degree murder was changed: it is now 18 years. The penalty for attempted second degree murder went from three to nine years.

Also: Return to work allowed for police officers. Start at entry level and pay into PERA. More money to recruit and retain officers.

TECHNOLOGY AND LAW ENFORCEMENT

A hundred years ago, when police cars came out, the biggest thing in technology was having a radio in a police car.

Since then, there have been some new trends in police technology.

BEING PROACTIVE – TRAFFIC (AUTOMATIC LICENSE PLATE READERS)

It was only in 2016 that the NM Supreme Court gave approval for license plate readers. The owner of the vehicle is presumed to be the driver of the vehicle.

Facts:

In San Juan County, NMSP stopped a vehicle when a license plate came back “insurance unknown.” Testimony was given that approximately 90 percent of these have no insurance.

Supreme Court, noted the percentage, said “unknown” is reasonable suspicion to make a stop. State v. Yazzie (2016).

Defense attorneys used to have two powerful arguments:

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

APD began encouraging their officers to run license plates. The result was a sharp decrease in auto thefts and property crimes. A number of departments now have license plate readers.

License plate readers have been used in other states for years and have been successful. They give an officer reasonable suspicion (stolen vehicle, revoked or suspended license, no insurance or insurance unknown, amber alerts, etc.) to stop a vehicle.

News item: A Crime Wave Carmakers Enabled

Most cars have electronic immobilizers that prevent cars from starting unless they detect a radio ID code associated with the car’s key.

But Hyundai and KIA did not install this device for about nine million cars sold between 2011 and 2022. The result is many of these cars are stolen. New York Times, September 3, 2023.

News item: Las Cruces offering steering wheel locks for KIA/Hyundai

Will be offered free to owners. KRQE, February 29, 2024.

TECHNOLOGY (NON-TRAFFIC)

AI Technology

VIDEO:

AI weapon detection company seeks to prevent school, other shootings: 'A proactive measure'. FOX News, March 7, 2024. (may also want to try YouTube).

YouTube: AI gun technology could be a tool to thwart school shootings. [KMSP – Fox News](#).

FACIAL RECOGNITION TECHNOLOGY

News item: 4 investigates: Police use of facial recognition.

Picture of a suspect at a crime scene compared to picture from social media, news stories, mug shots, etc. The company doing this in NM has 40 billion photos.

Departments so far include APD, Eddy County Sheriff's Office, Las Cruces PD, NMSP, and Rio Rancho PD. [KOB](#), December 3, 2020. **It's an investigative lead, not probable cause.**

DNA

VIDEO: **DNA Facial profile technology aids police in Brittani Marcel case.** [KRQE](#), July 25, 2017.

In 2011 DNA testing in NM was expanded to all felony arrests. In Virginia, Albemarle County Sheriff's Office worked with The Innocence Project to **add serious misdemeanors** for DNA testing. [Wall Street Journal](#), August 2, 2017. **RECOMMENDATION: NM might want to consider doing this.**

News item: New device streamlining DNA testing in Dona Ana County

Sheriff's office has a rapid DNA testing device that allows deputies to test DNA in 90 minutes. Federal funding helped to pay for it. [KRQE](#), June 3, 2022.

Note:

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.

News item: Former bus driver pleads guilty to three cold-case rapes

DA investigators in Albuquerque, using DNA, solved three rapes, each one occurred over 30 years ago. [KOAT](#), April 4, 2024.

DRONES

VIDEO: **They picked the wrong vehicle: Air tag helps family find their stolen vehicle.** [CNN](#), February 6, 2024. Note: Some cities are giving Air tags or similar devices to citizens for free.

VIDEO: **How this drone will take the place of first responders in an emergency.** [CNN](#), May 27, 2024.

A good video that shows what drones can do to save lives.

THE BAD GUYS ARE ALSO USING TECHNOLOGY

VIDEO: A surge of illegal homemade machine guns has helped fuel gun violence in the US. KOB, March 9, 2024. Note: Glock inserts turn the Glock pistol into a machine gun. Very dangerous, especially with an extended ammunition magazine.

POLICE OFFICERS AND ETHICS

Police officer and ethics: In Roswell, a police officer convicted of five counts of time-card fraud. In Albuquerque, federal investigation of DWI unit.

Usually, ethics is a four-hour class in the middle of the academy. But let's be realistic: preaching to officers about ethics is difficult and not always working.

When a banker embezzles money from his bank, it's the banker we think of, not the profession. When someone on Wall Street is guilty of insider trading, we think of the person, not the profession. When a politician takes a bribe, we think of the person, not the profession.

But a police officer is different: there is not a single profession in America (perhaps the clergy) that has a higher expectation for honesty and integrity. When one officer stumbles and falls, it's a shock. The impact is felt by every police officer.

In ethics, we're trying a new approach. We do not lecture anyone. Instead, in class after class, we insert a few sentences or a paragraph in the outlines about ethics.

We also show videos of officers in NM who did not live up to expectations. Why do we do this? Not to lecture but as a reminder that we can never take our reputation for granted.

In [Brady v. Maryland](#) (1963) 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 a prosecution witnesses.

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

News item: [Bernalillo County DA tracking police misconduct](#)

The DAs Office sends a Giglio (named for a US 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. [KRQE](#), October 29, 2021.

FINISHING ON A HIGH NOTE

Peter Drucker, a person who taught management to many, once noted that the longer you wait to do something, the worse a crisis will get.

- If you don't know a crisis is brewing, you're guilty of ignorance.
- If you fail to act once it arrives, you're guilty of negligence, and
- If you fail to act properly once it arrives, you're guilty of incompetence.

“To fix a problem, we must recognize the problem, identify the cause of the problem, and determine the course of action.”

Professor Rod Brunson, University of Maryland, noted a concern in Black communities with “over-policing” and “under policing.”

In other words, police are aggressive in frequent encounters with residents yet do not appear to be solving a lot of crimes.

The challenge for law enforcement: Downsize and refocus.” Combine police reform and downsizing and **also** reduce crime.

Law enforcement has changed a lot in recent years and we need to continue to change.

A Chief or Sheriff, with leadership and vision, can have a good department. It takes, however, everyone working together to make it a great department.

The good news is that in NM there is strong support for law enforcement.