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## The Institute of Public Law: Over Four Decades of Public Service

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# THE INSTITUTE OF PUBLIC LAW: OVER FOUR DECADES OF PUBLIC SERVICE

PAUL BIDERMAN\*

## INTRODUCTION

In the late 1960s, at the University of New Mexico School of Law, Bratton Hall would soon be dedicated, the *New Mexico Law Review* was about to be initiated, and the clinical law program was taking off.<sup>1</sup> Dean Thomas Christopher had come to New Mexico from the University of North Carolina at Chapel Hill.<sup>2</sup> There he had admired the work of the University of North Carolina Institute of Government, which had long served North Carolina, and he resolved to try to establish a comparable entity at the University of New Mexico (UNM).<sup>3</sup>

Establishing such an entity was easier said than done, however. The University of North Carolina Institute of Government served its state in capacities that have been assumed in New Mexico by the New Mexico Legislative Council Service,<sup>4</sup> the New Mexico Municipal League,<sup>5</sup> and the New Mexico Association of Counties,<sup>6</sup> among others.<sup>7</sup> The Legislative Council Service already performed statutory research and drafting for the legislature.<sup>8</sup> The New Mexico Municipal League and the New Mexico Association of Counties provided legislative analysis and training services for their respective local governments.<sup>9</sup> These were significant services that had been assigned to the Institute of Government in North Carolina.<sup>10</sup> The niche available for a new institute to fill was limited, as were funds to support it.

In July of 1967, Dean Christopher assigned a retired attorney from the federal government, Raymond Sawyer, to, amidst his other duties, attempt to found an

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\* Paul Biderman has served as director of the Institute of Public Law (IPL) since 2005. He started at IPL as founding director of the Judicial Education Center in 1995. His career since his admission to the New Mexico bar in 1971 has included four years in legal services, seven years in the Attorney General's Consumer Division, seven years in private law practice, and four years as New Mexico Secretary of Energy and Minerals. He was named Public Lawyer of the Year in 2005 by the State Bar Association. He is indebted to former New Mexico IPL directors, Gary O'Dowd and Paul Nathanson, and to Professor Emeritus and former Dean, Fred Hart, for contributing their recollections of the IPL's origins through the 1980's. An unpublished 1973 annual report provided information on IPL's early products. In addition, IPL veteran staffers reviewed this article to add details generally about IPL and specifically about the centers. These staffers included: Carolyn Byers, Judy Flynn-O'Brien, Beth Gillia, Sue George, Pam Lambert, Ruth Musgrave, Georgette Stockman, and Yolanda Rodriguez.

1. See generally UNIV. OF N.M., ANNUAL REPORT 10/15 (1970-71); UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 6/1064 (1969-70); 1 N.M. L. Rev. 1 (1971).

2. Interview with Gary O'Dowd, Former Dir., Inst. of Pub. Law & Fred Hart, Dean Emeritus, Univ. of N.M. Sch. of Law, in Albuquerque, N.M. (Mar. 4, 2010).

3. *Id.*

4. NMSA 1978, § 2-3-2 (1951, as amended through 1955) (establishing the Legislative Council Service).

5. The New Mexico Municipal League was first established in 1928 as the Municipal League of New Mexico, then reconstituted after the Korean War in 1953. It was given its current name in 1961. New Mexico Municipal League, History, <http://nmml.org/about-nmml/history/> (last visited May 27, 2010).

6. The New Mexico Association of Counties was officially incorporated in 1968. New Mexico Association of Counties, <http://www.nmcounties.org/> (last visited May 27, 2010).

7. See, e.g., NMSA 1978, § 9-3-10 (1977, as amended through 2007) (creating the New Mexico Sentencing Commission).

8. NMSA 1978, § 2-3-8 (1951, as amended through 1955).

9. See New Mexico Municipal League, About NMML, <http://nmml.org/about-nmml/>; New Mexico Association of Counties, <http://nmcounties.org/> (last visited May 27, 2010).

10. See UNC School of Government, About the School, <http://www.sog.unc.edu/about/history.html> (last visited May 28, 2010).

institute to be called the Institute of Public Law and Services (IPL).<sup>11</sup> By the time Mr. Sawyer left IPL in 1970 he had secured a contract with the judiciary to develop the first statewide criminal practice rules of procedure.<sup>12</sup>

After Professor Al Utton served briefly as IPL director, Dean Christopher hired attorney Gary O'Dowd, who had served as Utton's deputy, as director.<sup>13</sup> By this time, there were little or no remaining funds. That year, the School of Law was just moving from its building on the UNM main campus to the new Bratton Hall on north campus. But all the office space in the new building was already spoken for: all that the newly created IPL could garner was a trailer in the parking lot.<sup>14</sup> With neither funding nor office space, IPL struggled through its first full year of operation and faced an uncertain future.

The breakthrough for IPL came in 1971 when newly elected Governor Bruce King called upon Dean Christopher to secure O'Dowd's assistance in organizing a legislative team.<sup>15</sup> In the time it took Dean Christopher to sit down and light a cigar proffered by the governor, the deal had been closed.<sup>16</sup> There would be a trade-off: O'Dowd would assist Governor King in preparing and reviewing legislation, and King would assist Christopher with IPL. One phone call later, the university administration had found and committed \$18,000 from the UNM budget to the fledgling institute, and IPL was underway.<sup>17</sup>

According to a 1973 report, IPL went on to complete the criminal rules; produce rules of evidence, uniform criminal jury instructions, and a magistrate benchbook;<sup>18</sup> and conducted other research, drafting, and advising for all three branches of government.<sup>19</sup> Also among IPL's early roles was compiling the New Mexico statutes.<sup>20</sup> These achievements came with the strong support of Christopher's successor, Dean Fred Hart, who built IPL's revenue and connections.<sup>21</sup> The publicly funded UNM School of Law had formally recognized and delivered on its responsibility to contribute to good governance and implementation of informed public policy, a commitment that has endured throughout the ensuing four decades.

While its clients and projects have evolved over the years, the basic nature of IPL's services has continued to reflect these core functions from its earliest days. One of the key principles that the faculty, staff, and students working at IPL have adhered to has been a commitment to address difficult but important public policy issues from as objective a perspective as possible. This article will highlight some of

11. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 2/675 (1966-67).

12. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 2/1060 (1969-70).

13. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 2/1063 (1970-71); UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 15/1155 (1971-72).

14. Interview with O'Dowd & Hart, *supra* note 2.

15. *Id.* This "legislative team" would analyze the bills that came out of the legislature for the governor and lieutenant governor. *Id.*

16. *Id.*

17. *Id.*

18. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 1469-78 (1972-73).

19. See *id.* at 1/1169.

20. Interview with O'Dowd & Hart, *supra* note 2.

21. Cf. UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 1469-78 (1972-73); see also UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 1/1141 (1971-72). Fred Hart was Dean of the UNM School of Law from 1971-79 and 1985-86. University of New Mexico School of Law, Professor Frederick M. Hart, <http://lawschool.unm.edu/faculty/emeriti/hart/index.php> (last visited May 27, 2010).

IPL's history, to trace its evolution in the themes that have driven its programming, and to identify some of the new directions toward which it is moving.

## I. OVERVIEW OF THE INSTITUTE

### A. *Overarching Themes of the Institute*

If there is one unifying theme that has driven IPL's work over the years, it has been seeking to promote excellence in public institutions through law-related service to government. IPL has focused primarily on the government of the State of New Mexico and many of its agencies. Significant services have also been provided to local and tribal governments, agencies of other states, agencies of the United States, the University of New Mexico, non-profit organizations and community groups, and occasionally even to foreign governments.

The inclusion of the word "public" in the IPL name often leads members of the public to call IPL for legal advice or representation on their personal problems or their unsatisfactory interactions with agencies. While IPL is neither staffed nor equipped to assist the public directly, IPL staff are trained to respond with referrals to other agencies. Where appropriate, IPL may also refer callers to some of our online educational resources.

### B. *IPL's Array of Services*

IPL provides law-related education and training, both in person and through distance learning technology, and develops and publishes printed and online law-related educational and reference resources. IPL attorneys research, analyze, write or revise legislation and rules, and research complex legal issues, for government agencies. IPL staff certify and monitor driving schools and instructors on behalf of the New Mexico Department of Transportation, and monitor ignition interlock suppliers.<sup>22</sup> IPL publishes periodic newsletters and promotional materials for the public, particularly in the area of traffic safety. IPL promotes constructive and respectful discussion on public policy issues by convening deliberative public forums.<sup>23</sup> And we prepare students of all ages to participate in civic life and pursue higher education through our "Wild Friends" program. Further examples of each of these activities will be provided below. Unlike institutes at some other law schools, IPL does not undertake litigation.<sup>24</sup>

In the past, IPL performed services or provided publications that have subsequently been eliminated or transferred to other agencies of government. For example, in its early years, IPL compiled the state's statutes and its attorney general opinions, functions long since transferred to the New Mexico Compilation Com-

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22. NMSA 1978, §§ 66-8-102(N) (2010), 66-5-501 to 504 (2003, as amended through 2009) (requiring all convicted DWI offenders to install ignition interlock devices).

23. For example, IPL conducted public deliberations in six communities around the state on proposed reforms to water adjudication laws, pursuant to Senate Joint Memorial 3 (2009). See INSTITUTE OF PUBLIC LAW, ASSESSING POTENTIAL CHANGES TO THE NEW MEXICO WATER RIGHTS ADJUDICATION PROCESS: RESULTS FROM DELIBERATIVE FORUMS AMONG THE ENGAGED PUBLIC 4 (2010), [http://ipl.unm.edu/water/SJM3\\_Report\\_UNM\\_IPL.pdf](http://ipl.unm.edu/water/SJM3_Report_UNM_IPL.pdf).

24. Cf. Brennan Center for Justice at New York University Law School, Court Cases, [http://www.brennancenter.org/content/resources/court\\_cases/](http://www.brennancenter.org/content/resources/court_cases/) (last visited May 27, 2010).

mission.<sup>25</sup> IPL also staffed the committees appointed by the New Mexico Supreme Court to review and propose revisions to judicial rules, a function that moved to the supreme court's staff attorneys within the last few years.<sup>26</sup> And despite its being more than two decades out of date and out of print, IPL still receives occasional impossible requests for the long out-of-print second edition of *Walden on Civil Procedure*, last revised through IPL by UNM School of Law Professor Ted Occhialino in the mid-1990s.<sup>27</sup>

### C. Subjects Addressed by IPL

Over the years, IPL has worked in too many subject areas to delineate in this article. Several stand out as subjects that have been continuously addressed, or at least that have reappeared over the years. Most prominent among these are: traffic safety, child welfare and juvenile justice, wildlife conservation, judicial practice and procedure, public (including judicial) ethics, health and aging policy, water quality and environmental protection, regulation of public utilities, public education, alternative dispute resolution, and public deliberation on policy issues. This article will provide examples of IPL's work in each of these areas.

### D. Institute Staff

As of this writing, IPL has twenty-five permanent full or part-time staff. This complement includes five attorneys, four full-time and one part-time. The five attorneys include the director (a research faculty member of the University of New Mexico School of Law). The IPL staff also includes program managers, meeting planners, administrative staff, and technical staff. Finally, IPL has one undergraduate student employee. IPL also calls upon faculty and staff from the UNM School of Law, and from throughout the university, to serve as teachers, discussion leaders, and collaborators.

IPL's commitments create staffing needs that far exceed IPL's employees' workload capacities. But this workload rarely flows at a consistent rate: it comes in spurts long on volume and short on notice, interspersed by slower periods. IPL has long dealt with its fluctuating workload by drawing upon its team of outstanding on-call staff. On-call staff are paid by the hour for the work they perform when IPL secures contracts to provide services that require more time than the regular legal staff have available.<sup>28</sup> Most IPL on-call staff—ten of them as of this writing—are attorneys. Each of them brings one or more areas of skill and expertise in teaching, writing and/or research that IPL taps as needed. Several of the on-call staff attorneys are called upon regularly throughout the year.

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25. Cf. NMSA 1978, §§ 12-1-2 (2006), -3 (2006), -3.1 (2006).

26. See NEW MEXICO JUDICIARY ANNUAL REPORT 2006 11 (2006), [http://www.nmcourts.gov/newface/annualrp/ar2006/annual\\_report\\_2006\\_final.pdf](http://www.nmcourts.gov/newface/annualrp/ar2006/annual_report_2006_final.pdf).

27. See M.E. Occhialino, *WALDEN'S CIVIL PROCEDURE IN NEW MEXICO* (2d ed. 1996).

28. For example, this happened when IPL received a contract from the New Mexico Department of the Environment to promulgate rules regulating petroleum storage tanks and releases. Because the scope of the project has exceeded original projections, two on-call attorneys with rule-writing expertise have been enlisted to conduct much of that work.

### *E. IPL's Academic and Public Service Activities*

IPL's long-standing commitment to academic achievement and public service has been demonstrated throughout the years by the many teaching, mentoring, and volunteer activities undertaken by its staff. For example, IPL attorney Ruth Musgrave has taught UNM School of Law courses on wildlife law and biodiversity law; former director Paul Nathanson taught legislative and administrative process; former IPL ethicist Joan Gibson and senior attorney Pam Lambert taught bioethics; and the author of this article has co-taught seminars in public law and judging. Further, senior attorneys Pam Lambert and Beth Gillia have coached UNM moot court teams, including teams that have reached the national finals.<sup>29</sup> In addition, IPL staff members have assisted with faculty courses. IPL also has offered mentoring, externships, and employment opportunities for law students. In addition, IPL staff members have served as volunteers on many community, state, national, and court committees and projects. Because of this, IPL attorneys provide a significant amount of pro bono service each year.

Likewise, UNM School of Law faculty members have been involved in IPL activities for many years. They have served as advisors and presenters in IPL educational programs, contributed to publications, and provided their expert assistance in projects involving rulemaking and policy developments.

### *F. Management and Funding*

The Institute is structured essentially as a collection of self-supporting centers, joined by a common management and administrative structure. Centers are created infrequently, when a need within some level of government is identified, when staff, or prospective staff, express an interest in meeting the need, and when funding is available or can be found to support the effort. All three of these factors—recognized need, staff commitment, and a funding source—must exist for a center to take root. Management determines which ideas for new programs offer sufficient promise, after which nascent center directors are given responsibility and support for establishing and operating them. Center directors get as much discretion to run their programs as possible, within constraints of UNM policy.

IPL's director has the ultimate responsibility to manage IPL and all of its programs, subject to the director's supervision by the Dean of the UNM School of Law. The director frequently consults with the program managers of the various centers, and especially with associate IPL directors Pam Lambert and Judy Flynn-O'Brien. The complex tasks of administering IPL to comply with the requirements of law and UNM policy fall under the leadership of Financial Analyst Roger Thompson and Administrator Krista Allen.

IPL receives substantial in-kind support from UNM and UNM School of Law, including rent-free office space, utilities, building maintenance, remodeling services, and security services. UNM also provides some of our information technology and financial services, although in-house staff must devote full-time to the unique needs of IPL in those areas as well. Like all grant and contract-funded programs, IPL pays indirect costs (called "Facilities and Administration") to

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29. From 2004 through 2008, Beth Gillia coached the Phillip C. Jessup International Law Moot Court team. Pam Lambert coached the National Health Law Moot Court team for years during the 1990s.

UNM, but a portion of that is paid back quarterly to IPL. These rebates of the overhead charges on the contract work that IPL generates are a major source of funding for IPL management and administration.

This structure reveals several things about IPL's culture. As a primarily self-supporting entity, it relies almost entirely on "soft money" for its employee compensation and other operating expenses.<sup>30</sup> Even the management and administrative staff rely indirectly on these non-recurring funds for their compensation. This means that IPL attracts creative ideas and people who are able to flourish in a "soft money" environment. With only limited direct legislative appropriations, many of those who agree to try to establish or to staff IPL's centers are public-interest oriented risk-takers who have the vision, commitment, and fortitude to experiment with ideas.

Additionally, most of IPL's funding comes from appropriations to or contracts with IPL's centers, and center staff work closely with constituencies outside the university.<sup>31</sup> As a result, most of the staff identify themselves by their center names and maintain their distinct recognition rather than emphasizing their IPL connection. This happens because the name of each center most clearly identifies the services it provides, whereas "IPL" is more of a generic, encompassing name. Constituencies that have helped IPL over the years have primarily focused on the various centers they seek to support, rather than IPL as a whole.

In its more than forty-year existence, IPL has had just five directors. The first director, who served part-time after his appointment by Dean Christopher in 1967, was Raymond Sawyer, an attorney retired from federal government service.<sup>32</sup> He was followed during 1970–71 by Professor Al Utton, who was soon succeeded by Deputy Director Gary O'Dowd in 1971.<sup>33</sup> O'Dowd was replaced by research law faculty member Paul Nathanson in 1983.<sup>34</sup> Nathanson continued in this position until he entered an active retirement in 2005.<sup>35</sup> He was replaced by the author, also a research faculty member, who had served as the founding director of the Judicial Education Center since 1991 and as an Associate IPL Director for much of his tenure.<sup>36</sup>

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30. "Soft money" refers to funds that are not derived from the University's formula-generated, "instructional and general" funding. Soft money encompasses grants, contracts, fees, and special appropriations that are authorized yearly.

31. For example, legislative annual special project appropriations have been made directly to the Judicial Education Center, the Children's Law Center, and the Wild Friends program, rather than to IPL. See H.B. 2, 1st Reg. Sess. 192–93 (N.M. 2007) (appropriating \$363.3 thousand to the Judicial Education Center, \$168.4 thousand to the Corrine Wolfe's Children's Center and \$149.4 thousand to "Wildlife law education") available at <http://www.nmlegis.gov/Sessions/07%20Regular/final/HB0002.pdf>.

32. Henry P. Weihofen, *History of the School of Law: 1947-1987*, at 83 (unpublished monograph).

33. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 15/1155 (1971–72).

34. See UNM'S Nathanson Elected to Chair Board for National Committee to Preserve Social Security and Medicare, Press Release, Jan. 24, 2003, available at <http://www.unm.edu/news/Releases/03-1-24nathanson.htm>.

35. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 26 (2005–06).

36. See *supra* note \*. The Judicial Education Center provides education and training to the state judicial branch, pursuant to NMSA 1978, Section 34-13-2 (1993). See *infra* Part II.D.

### G. Facilities

For many years IPL's staff have been split among several locations. Its administrative offices and some of the program staff are located on the second floor of the New Mexico Law Center, a small building located immediately to the south of Bratton Hall. Since IPL staff quickly outgrew that space, in 1993 IPL was able to obtain the assignment from UNM of a former law firm office building, which staff refer to as IPL-West, on University Boulevard south of Indian School Road. This building houses most of the staff of three IPL centers as well as IPL's main conference room and videoconferencing equipment. In 2009, UNM completed work on an extensive remodel of the basement of the New Mexico Law Center, creating five new offices.

The background of the New Mexico Law Center is rather interesting. The building was erected in 1974 on university land, but in consideration of private contributions toward the costs of initial construction and later remodeling, UNM gave a lease for the life of the building on the first floor.<sup>37</sup> That lease ultimately was assigned to the New Mexico State Bar Association's Center for Civic Values (CCV).<sup>38</sup> The first floor initially housed the state bar offices, but after the state bar moved off-campus, CCV subleased the floor to the New Mexico Court of Appeals to serve as offices for several judges and their staff.<sup>39</sup> Now that the court has moved into its new building next to the UNM School of Law, CCV has subleased the floor to the UNM Alumni Association temporarily, while the association's main UNM campus offices undergo an extensive renovation.<sup>40</sup> UNM's Real Estate office is exploring with CCV the possibility of buying out the rest of the lease to make the space available to the UNM School of Law. This acquisition would allow IPL-West staff located in the building on University Boulevard to move into the same building with the rest of the IPL staff.

## II. IPL'S CENTERS

As of this writing, IPL serves the state primarily through five centers. Following roughly the order in which each center began offering services, they are: the Government Law Center, the Traffic Safety Law Center, the Center for Wildlife Law, the Rozier E. Sanchez Judicial Education Center, and the Corinne Wolfe Children's Law Center. Other centers may be added by the time of publication.<sup>41</sup>

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37. Agreement Between Regents of University of New Mexico and New Mexico Bar Foundation (Jan. 17, 1974, as amended by First Amendment to Lease Agreement (July 15, 1987)).

38. *Id.* The "New Mexico Bar Foundation" eventually became the "Center for Civic Values." See Center for Civic Values, [http://www.civicvalues.org/about\\_ccv.htm](http://www.civicvalues.org/about_ccv.htm) (last visited Dec. 11, 2010) (CCV was founded originally in 1962 as the New Mexico Bar Foundation and is organized as a 501(c)(3) nonprofit charitable and educational corporation. Our offices are in Albuquerque, New Mexico; we have program activities throughout the state; and, our educational materials have been used in classrooms and mock trial programs across the country.")

39. See Sublease Agreement Between New Mexico Bar Foundation and Court of Appeals of New Mexico (Apr. 3, 1990).

40. This change occurred in 2010.

41. See University of New Mexico School of Law's Institute of Public Law, <http://ipl.unm.edu> (last visited May 28, 2010). Updates are posted on the website. Additional centers are expected to include the Utton Transboundary Resources Center, and one or more centers to promote public policy deliberation and ethics.



### A. *The Government Law Center*

Among the Institute's first projects were the compilation of session laws into statutes, and the research and drafting of statutes and rules for state agencies.<sup>42</sup> While the compilation work has long since moved to the New Mexico Compilation Commission,<sup>43</sup> IPL attorneys have continued to provide research and drafting services over the years. This type of work is currently performed by IPL's Government Law Center. (Examples of agencies served follow each project description in parentheses.)

Government Law Center projects have ranged from revisions of existing agency rules (Public Regulation Commission, the Environment Department, and the Regulation and Licensing Department) to massive review of the State Motor Vehicle Code (Taxation and Revenue Department) to prepare for a major statutory recodification. Often state agencies have approached IPL to develop rules to implement new agency regulatory responsibilities (Secretary of State, Department of Tourism, Department of Transportation, and Health Policy Commission). The Government Law Center has also frequently conducted research into complex legal questions defining jurisdiction (Department of Environment, Department of Health) or answering research questions posed by legislative memorials (Department of Aging and Long-Term Services). IPL attorneys helped Bernalillo County develop a Groundwater Protection Plan and analyzed and developed health information confidentiality provisions for the State. The UNM Counsel's Office has called on IPL for support on such tasks as revising the Regents' Policy Manual and analyzing conflicts of interest in sponsored research projects. And to serve the judiciary, the Government Law Center several years ago temporarily staffed New Mexico Supreme Court-appointed committees that develop judicial rules, until the court had a chance to hire its own staff attorneys to take that over.

Former IPL senior attorney Julia Heller set the standard and established many of the agency relationships for the work of this Center. Since her retirement, IPL senior attorneys currently overseeing projects within this center include Beth Gillia, Sue George, and Leigh Brunner.

### B. *The Traffic Safety Law Center*

Enhancing the safety of New Mexicans on the road has long been one of IPL's strongest commitments. Toward that end, two programs combine to work as the Traffic Safety Law Center: the education program and the licensing program. Under contracts with the State Department of Transportation Traffic Safety Bureau, both programs interact closely with the state's network of driver improvement, DWI, and driver education schools.

The education program of this Center helps to ensure that teachers in these schools are all using up-to-date and proven curricula to train the (typically) high school students seeking driver's licenses and adult drivers cited for driving offenses, including drunk driving offenses (DWI). Every student, from the aspiring new driver to the DWI offender, is assured by the education program that the instructor at the front of the class has been trained in the latest rules of the road

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42. See, e.g., UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 1969-71 (1972-73).

43. See *supra* note 25.

and research on safe driving. IPL's education program also educates the public and traffic safety professionals from government and non-profit organizations by publishing quarterly newsletters for various audiences, arranging traffic safety summits and special governor's research forums, and convening the state's leaders in DWI amelioration through a monthly DWI leadership meeting. IPL has made traffic law accessible for the public with our print materials: *The New Mexico Motor Vehicle Laws Handbook*, *The Motorcycle Laws Handbook*, *FastFacts* sheets, and the *High Cost of DWI*, a poster displayed in liquor establishments around the state and an IPL publication that has appeared in the *New York Times*.<sup>44</sup> Attorneys from IPL are frequently called upon for legal guidance on legislative and regulatory proposals on impaired driving. IPL has been proud to be a significant part of a multi-year coordinated statewide effort that has led to a nationally recognized decrease in drunken driving offenses and injuries.<sup>45</sup>

The licensing program of the Traffic Safety Law Center certifies that the various driver education schools and their instructors all meet the requirements imposed on them by the state's rules. The licensing team ensures, for example, that all schools use only instructors who have been certified as having received prescribed training and as having passed criminal background checks. The programs conduct statewide site visits to check on the compliance by all programs, not only of these schools but also of approved ignition interlock device providers.

When on rare occasions schools use uncertified instructors, or fail to deliver training services paid for by parents, the licensing team reports the deficiencies to the Department of Transportation, prepares evidence to support its findings, and may ultimately manage the distribution of security bond funds to aggrieved consumers. IPL attorneys have drafted the rules used by the state Traffic Safety Bureau in this program, and have served as the administrative prosecutor before the Department's administrative hearing officer.

The education program is headed by Program Manager Georgette Stockman. Yolanda Rodriguez currently serves as program manager for the Center's licensing program, having taken over that role after the retirement of Julia Heller, who initiated the program.

### C. *The Center for Wildlife Law*

As noted above, the IPL operating model envisions interested individuals creating centers that enhance the ability of government to provide excellent service, when their ideas can attract funding. The Center for Wildlife Law embodies that model, demonstrating how well the model can succeed as well as the difficulties the model presents.

In 1990, Ruth Musgrave, an attorney in private law practice, approached then IPL Director, Paul Nathanson, with the idea of creating a center devoted to her

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44. See New Mexico Transportation Safety Law Center, Traffic Safety Publications, Reports, and Research, <http://transportation.unm.edu/pubs/tocpubs.htm> (last visited May 27, 2010); Ralph Blumenthal, *Old New Mexico Woe, Drinking and Driving, Is Vexing State Anew*, N.Y. TIMES, Dec. 4, 2005, at 37, available at [http://www.nytimes.com/2005/12/04/national/04drunk.html?\\_r=1&scp=1&sq=%22New%20Mexico%22%20Drunk%20Driving%20Rachel%20Connor&st=cse](http://www.nytimes.com/2005/12/04/national/04drunk.html?_r=1&scp=1&sq=%22New%20Mexico%22%20Drunk%20Driving%20Rachel%20Connor&st=cse).

45. See N.M. STATE DEP'T OF TRANSP., HIGHWAY SAFETY AND PERFORMANCE PLAN FY 2008, at 14-16 (2008), <http://nmshtd.state.nm.us/upload/images/trafficSafety/pdf/FY08HSPP.pdf>.

passion: wildlife conservation.<sup>46</sup> Nathanson encouraged her to pursue that idea, offering office and administrative support, but with the understanding that she would be responsible for securing funding.<sup>47</sup> With the support and encouragement of UNM Law Professors Rob Schwartz and Al Utton, the Center for Wildlife Law (CWL) flourished. Some twenty years later, the CWL has published volumes compiling state and federal wildlife laws and regulations, numerous reports and surveys on New Mexico and other state wildlife and biodiversity laws, and environmental impact reviews for the U.S. Fish and Wildlife Service. The CWL also researches, publishes, and disseminates the Wildlife Law News Quarterly, and distributes frequent news alerts to state game and fish agencies and libraries nationally. Musgrave and her colleague Sue George present at conferences and contribute articles and chapters to publications within their field. The Wildlife Law News Quarterly has long been supported by subscriptions and by contributions from foundations and wildlife organizations and agencies. But the economic downturn has left it underfunded and increasingly reliant on volunteer work. If it is able to continue beyond the period committed to its current subscribers, it may be able to do so only with a new emphasis on the legal and regulatory impacts of climate change on wildlife.

While these publications took shape, the CWL also began to implement an innovative program to educate New Mexico schoolchildren about wildlife law and policy as a way of introducing them to the role that citizens play in a democratic society. The program, called “Wild Friends,” works with teachers at elementary and secondary schools. The teachers have students select a topic of concern to wildlife conservation; the students research that topic in their classes, and draft proposed legislation to address it. The theme is “finding common ground”: all the students in the program get behind a single legislative memorial or bill, and legislators introduce it. Many of the students make field trips to Santa Fe to meet their legislators, discuss the Wild Friends legislation, and even present arguments before legislative committees or serve as invited guests on the floor of the chamber where the legislation is being debated. Some of the topics addressed over the years by students have included a ban on “cyberhunting” (the use of remote computerized methods for hunting), preventing wildlife-vehicle collisions, and protection of pollinators. Wild Friends legislative proposals have succeeded almost every year in which they have been introduced, an achievement that professional lobbyists can only dream to accomplish.<sup>48</sup>

Wild Friends receives appropriations from the state legislature, but also must rely on foundation and private sources to supplement these funds. Program Manager Carolyn Byers is the only full-time staff member, but she receives support in accomplishing the Wild Friends initiatives from a part-time science educator, several legal educators, and just about everyone on the IPL staff who can get to Santa Fe with the schoolchildren at least once each legislative session.

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46. E-mail from Ruth Musgrave, Attorney, to Paul Biderman, Director, Institute of Public Law (June 25, 2010 04:18 MST) (on file with author).

47. *Id.*

48. *See, e.g.*, H. Mem. 4 (N.M. 2010); S. Mem. 9 (N.M. 2010). Both Memorials were unanimously adopted by their respective houses in the regular 2010 legislative session. These identical memorials called for the protection of pollinator species. *See* H. Mem. 4 (N.M. 2010); S. Mem. 9 (N.M. 2010).

#### *D. The Rozier E. Sanchez Judicial Education Center*

New Mexico's judiciary has long valued strong education for all levels of court staff as well as judges. Providing a first class program of educational programming and resources was the dream of a group of judges, led by District Judge Rozier E. Sanchez, in 1988.<sup>49</sup> The team found support from the New Mexico Supreme Court and the associations of judges and of court staff, obtained passage of a legislative memorial, and went to work.<sup>50</sup> They attended a national leadership program for judicial education to develop a vision and a plan, and approached the UNM School of Law to host a new judicial education program. An advisory board, called the Judicial Education and Training Advisory Committee (JETA), was appointed by the court to oversee the new program, seed money was obtained through a grant from the federally funded State Justice Institute, and matching funding was committed by the New Mexico Administrative Office of the Courts. In December 1991, the advisory board hired the author of this article, then an attorney in private practice, to serve as the first director of the new Rozier E. Sanchez Judicial Education Center at IPL (JEC).

During its first year of operation, JEC offered conferences for every group of judges and court staff in the state judiciary. Further, it offered specialized seminars, notably on domestic violence, under a foundation grant. During New Mexico's 1993 Legislative Session, JEC was statutorily established as the primary source of judicial education for the state.<sup>51</sup> To provide a relatively steady source of funding, a judicial education fee of one dollar per violation was added on to all full, petty, and penalty assessment misdemeanor fines.<sup>52</sup> These fees have subsequently grown to three dollars per violation as costs have increased over time.

Over the years JEC, with ongoing guidance and support from the Judicial Education and Training Advisory Committee, has grown to offer a full array of educational programming, including orientation for new judges, some ten benchbooks or manuals on topics important to judges and court staff, and an extensive website of educational and reference materials.<sup>53</sup> For more specialized and intensive programming, JEC has sent judges and staff to national conferences to help them build expertise within the state judiciary. JEC spearheaded development of a semester course on judicial studies at Central New Mexico Community College, for which JEC pays the tuition for court employees' enrollment. Court staff can attend this course from anywhere in the state using distance learning facilities, and some staff go on to take additional coursework to obtain a judicial studies certificate. To provide a source of well-prepared court interpreters in the Navajo language, for over a decade JEC has annually committed to fund a training and certification program out of the National Center for Interpretation at the University of Arizona.

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49. PAUL BIDERMAN, REPORT TO THE STATE JUSTICE INSTITUTE ON THE FIRST YEAR OF OPERATION OF THE NEW MEXICO JUDICIAL EDUCATION CENTER 4 (Feb. 10, 1993) (on file with author).

50. S. Mem. 31 (N.M. 1989) (supporting a Regional Judicial Training Center).

51. See NMSA 1978, § 34-13-2 (1993).

52. See NMSA 1978, § 34-13-1 (1993).

53. JEC publications include benchbooks for the magistrate, municipal, and probate courts; and on the subjects of child welfare law (through the Children's Law Center), DWI, domestic violence, ethics, sexual assault, and traffic citations. For a listing and to access the full text of all JEC benchbooks, see Judicial Education Center, Benchbooks/Guides, <http://jec.unm.edu/resources/benchbooks/index.htm> (last visited May 28, 2010).

JEC's online courses, innovative educational programs, and reference materials earned its website the State Justice Institute's Howell Heflin Award, presented to JEC at the United States Supreme Court in 2002.<sup>54</sup> JEC was also awarded the Judicial Educator of the Year Award by the Judicial Division of the American Bar Association in 1997.<sup>55</sup>

After Biderman was named IPL Director in 2005 by Dean Suellyn Scarnecchia, Senior IPL Attorney Pam Lambert took over as JEC Director and IPL Associate Director. Lambert leads JEC and its six staff members in new directions as it continues to prove itself as one of the nation's leading programs of its kind.

#### *E. Corinne Wolfe Children's Law Center*

In 1997, IPL was again approached by the New Mexico judiciary to address a particularized, high priority need for education, resources, and policy development. This time, the need was in the area of child welfare law and procedure.

Managing the judicial system for civil child abuse and neglect cases involves many more participants than just the judge and the two attorneys typically involved in civil and criminal cases. Because of the high value placed on preservation of familial relationships in safe settings and to ensure that the best interests of the child are taken into account, the court appoints attorney-guardians *ad litem* for younger children, counsel for older youth, and counsel for each of the parents whose rights may be affected.<sup>56</sup> Social workers and counselors are all closely involved in the proceedings and are consulted by the courts and the parties in these legally and factually complex cases. The courts also receive independent advice from volunteer "CASAs" (Court Appointed Special Advocates) and consider recommendations from Citizen Review Boards.

The Corinne Wolfe Children's Law Center (CLC) was formed to provide thorough and consistent preparation for each of these participants to understand and perform their role in this unique system. Named in honor of lifelong children's advocate and dedicated social worker Corinne Wolfe, CLC addresses these needs through a variety of vehicles, ranging from relatively small local seminars to its support for the giant annual Children's Law Institute.<sup>57</sup> The comprehensive Child Welfare Handbook, developed and updated periodically by CLC attorneys, is distributed in hard copy and online to professionals throughout the state.<sup>58</sup> This vital publication serves not only to educate all participants in applicable law and policy, but also serves to create common understandings and language among them.

In recent years CLC has become increasingly committed to providing similar support for the juvenile justice system. The need for services similar to those offered in children's law in the juvenile justice area is underscored by the relationship between child abuse and neglect and delinquency: one is often closely

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54. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 867 (2001-02).

55. See UNIV. OF N.M. SCH. OF LAW, ANNUAL REPORT 11 (1996-97).

56. See, e.g., NMSA 1978, § 32A-1-7 (2005).

57. The Children's Law Institute is an annual conference to enhance the skills and knowledge of professionals participating in the child abuse and neglect and juvenile justice systems. See Corinne Wolf Children's Law Center, <http://ipl.unm.edu/childlaw/> (last visited May 28, 2010).

58. See JUDICIAL EDUCATION CENTER, CHILD WELFARE HANDBOOK (2007), [http://jec.unm.edu/resources/benchbooks/child\\_law/index.htm](http://jec.unm.edu/resources/benchbooks/child_law/index.htm).

associated with the other, yet the systems operate largely independently of one another. An example of CLC's increased efforts to introduce best practices and well-prepared professionals to the juvenile justice area is the CLC's current project to develop a Juvenile Justice Handbook similar to the one on child abuse and neglect.

CLC combines an appropriation of state funds with an annual Court Improvement Project training grant received from the New Mexico Administrative Office of the Courts, but funded by the Federal Children's Bureau, to fund its staff and services. Federal funding to support CLC's efforts in juvenile justice has also come through the state's Juvenile Justice Advisory Committee and the Children's Justice Act Advisory Group. Like JEC, CLC consults regularly with its advisory group, the CLC Steering Committee. Judy Flynn-O'Brien, Senior Attorney and IPL Associate Director, is the founding director of the CLC, with Beth Gillia serving as associate director

#### *F. Other Centers and Projects*

Over the decades IPL has initiated other centers and projects, which have either dissolved or moved elsewhere. Briefly, these include: the Center for Health Law and Ethics, the Fair Credit Lending Center, the Center for Aging Policy, and the Center for Conflict Resolution. The Center for Health Law and Ethics, after several years of working on health policy and end of life issues, moved to the UNM Health Sciences Center. The Fair Credit Lending Center focused on education and implementation of laws involving credit policies for low-income families, and subsequently joined with a private non-profit organization. Several other centers did their work and dissolved. The Center for Aging Policy, for example, analyzed medical malpractice policies and promoted public discussion, particularly in schools, about issues affecting senior citizens. The Center for Conflict Resolution attempted to promote mediation of public and private disputes.

In addition to these centers, noteworthy projects undertaken by IPL in past years have included NEWS 101, and the drafting of the Santa Fe Home Rule Charter. NEWS 101 gave video cameras to high school students encouraging them to make documentaries on issues of concern to their age group. This innovative program resulted in former IPL director Paul Nathanson being awarded an Emmy, the "Governor's Award, for its production in 1992.<sup>59</sup> Although voters rejected the first draft of the Santa Fe Home Rule Charter prepared by IPL and presented to the charter commission, a revised version was adopted in a subsequent election.<sup>60</sup>

#### *G. New Directions*

Changes in funding sources and amounts, in staff composition, and in public needs all dictate that an organization like IPL must constantly reexamine its work and reinvent itself. Never has that reality been more applicable than in the current

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59. E-mail from Chris Schuler, Christopher Productions, LLC, to Paul Biderman, Director, Institute of Public Law (Dec. 9, 2010, 16:55 MST); *see also* Christopher Productions, <http://www.christopherproductions.org> (last visited Dec. 10, 2010).

60. The City of Santa Fe Municipal Charter was initially adopted by the voters of the City of Santa Fe, New Mexico, at a Special Municipal Election. *See* CITY OF SANTA FE N.M., MUNICIPAL CHARTER, <http://www.santafenm.gov/archives/165/City%20of%20Santa%20Fe%20Municipal%20Charter.pdf>.

climate, when state-generated funds, which have provided the great bulk of IPL's support, are severely constrained.<sup>61</sup> While a paucity of funding is thus driving IPL in new directions, IPL staff are determined that any new directions undertaken will be well-thought out and productive, and will ultimately improve, rather than diminish, IPL's services.

#### *H. Public Deliberation*

As public discussion on policy issues has become increasingly polarized, IPL has committed to introduce constructive forms of public deliberation. IPL has developed a partnership with the Kettering Foundation of Ohio to join their network of public policy institutes, employing models for public deliberation that involve greater listening and openness to tradeoffs that consider other perspectives.<sup>62</sup> IPL conducted its first series of such deliberations at the request of the legislature, and under contract with the Administrative Office of the Courts, on proposed reforms to water adjudication laws and policy.<sup>63</sup> IPL is currently working on two projects to create deliberations on economic security: one on senior issues funded by the New Mexico Department of Aging and Long-Term Services; the other as part of a national inquiry on attaining economic security for everyone, supported by the Kettering Foundation of Dayton, Ohio. IPL Director Paul Biderman and the director of the UNM School of Law's Institute for Public Policy, Amelia Murphy, are heading up these efforts.

#### *I. Public Ethics*

No government can aspire to excellence without a strong and credible commitment to demand and enforce ethical conduct by all its officials and employees. IPL has, over the years, provided training to state officials on public ethics. IPL staff members are actively working to expand this effort from individual agency training sessions to providing comprehensive resources for state agencies similar to those IPL has long provided for the judiciary. For example, IPL publishes a judicial ethics handbook,<sup>64</sup> and posts online the opinion letters issued by the Judicial Code of Conduct Advisory Committee,<sup>65</sup> on which IPL director Biderman serves.

#### *J. Bench and Bar Publications*

While IPL has long published the benchbooks and manuals for the judiciary posted on the IPL website, few publications have been directed toward the educa-

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61. See, e.g., N.M. LEGISLATIVE COUNCIL SERV., HIGHLIGHTS OF THE FORTY-NINTH LEGISLATURE 9–22 (2010), [http://legis.state.nm.us/lcs/misc/2010\\_highlights.pdf](http://legis.state.nm.us/lcs/misc/2010_highlights.pdf).

62. For example, members of the public deliberating on health care policy attempt to reconcile the range of concerns and interests in this area.

63. See S.J. Mem. 3 (N.M. 2009) (calling upon IPL to “design the format of and conduct one or more public meetings and employ other appropriate methods to obtain public comment on the procedures and processes for adjudicating water rights”); see also INSTITUTE OF PUBLIC LAW, ASSESSING POTENTIAL CHANGES TO THE NEW MEXICO WATER RIGHTS ADJUDICATION PROCESS: RESULTS FROM DELIBERATIVE FORUMS AMONG THE ENGAGED PUBLIC (2009), [http://ipl.unm.edu/water/SJM3\\_Report\\_UNM\\_IPL.pdf](http://ipl.unm.edu/water/SJM3_Report_UNM_IPL.pdf).

64. See JUDICIAL EDUCATION CENTER, JUDICIAL ETHICS HANDBOOK, [http://jec.unm.edu/resources/judicial\\_handbook/ethics/index.htm](http://jec.unm.edu/resources/judicial_handbook/ethics/index.htm).

65. See JUDICIAL EDUCATION CENTER, JUDICIAL CONDUCT ADVISORY OPINIONS, <http://jec.unm.edu/resources/advisoryopinions/index.htm>.



tional needs of the state bar. The major exceptions have been the Child Welfare Handbook, which incorporated much valuable material for both bench and bar, and the forthcoming Juvenile Justice Handbook. IPL is currently developing a Family Law Manual, which is primarily focused on the needs of judges, but will also incorporate matters of importance to family law practitioners. While the funding source for this project limits its financial support to judicial education, family law attorneys have volunteered their time to draft material of special interest to the bar. IPL staff will watch this initiative closely to see if it can be adapted for other areas of law.

#### *K. Emerging Mergers*

With the clouds of funding cuts lingering, IPL staff are moving toward merging with related UNM School of Law entities to attain efficiencies and expand opportunities. By combining IPL's strengths with the expertise and services offered by others, IPL staff expect to be able to offer a wider range of services to a broader audience. The two entities with whom IPL staff members are currently in the process of merging are the Institute for Public Policy, with its long tradition of public deliberation on policy issues; and the Utton Transboundary Resources Center, which focuses on providing information on water policy to the public and to policymakers and promoting public discourse on water issues. The commonalities between IPL and each of these programs will provide mutual benefits and opportunities for new programs and organizational efficiencies in the coming years.

### CONCLUSION

The many attorneys who have devoted much of their careers to serving in the Institute of Public Law stand out among the members of the state bar. The work of these attorneys, and that of many dedicated non-attorney IPL colleagues, demonstrates IPL's overall commitment to public service and to excellence in government. The staff of IPL constantly demonstrates creativity through their ability to identify public and organizational needs, and to devise ways to address those needs. Through these staff members, IPL has developed a record of achievement and trust with many government entities, by contributing to the government entities' abilities to provide excellent and timely service to their constituencies. As such, IPL represents an important service of the UNM School of Law and the University of New Mexico, making a significant contribution to the people of New Mexico from their flagship university.





