

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 17 JUDICIAL RECORDS RETENTION AND DISPOSITION SCHEDULES (JRRDS)
PART 264 JRRDS, ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS AND
DISTRICT OFFICES

1.17.264.1 ISSUING AGENCY: New Mexico Commission of Public Records - State Records Center and Archives
[5-25-95; 1.17.264.1 NMAC - Rn, 1 NMAC 3.2.92.1, 1-6-02]

1.17.264.2 SCOPE: All courts - judicial
[5-25-95; 1.17.264.2 NMAC - Rn, 1 NMAC 3.2.92.2, 1-6-02]

1.17.264.3 AUTHORITY:

- A. Judicial records retention committee established.
- B. Judicial records retention committee, duties.
 - (1) The committee shall establish a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records.
 - (2) The committee shall establish records disposal schedules for the orderly retirement of records. Records disposal schedules shall be filed with the NM state records center and archives, rules division, and shall not become effective until a NM supreme court order has been issued.

[5-25-95, 5-19-97; 1.17.264.3 NMAC - Rn, 1 NMAC 3.2.92.3, 1-6-02]

1.17.264.4 DURATION: Permanent
[5-25-95, 5-19-97; 1.17.264.4 NMAC - Rn, 1 NMAC 3.2.92.4, 1-6-02]

1.17.264.5 EFFECTIVE DATE: July 13, 1998, unless a different date is cited at the end of a section.
[5-25-95, 5-19-97; 1.17.264.5 NMAC - Rn, 1 NMAC 3.2.92.5, 1-6-02]

1.17.264.6 OBJECTIVE:

- A. To establish a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records (Section 14-3-6 NMSA 1978).
- B. To establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the Public Records Act (Section 14-3-6 NMSA 1978).
[5-25-95, 5-19-97; 1.17.264.6 NMAC - Rn, 1 NMAC 3.2.92.6, 1-6-02]

1.17.264.7 DEFINITIONS:

- A. "**administrator**" means the state records administrator. (Section 14-3-2, NMSA 1978)
- B. "**agency**" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico. (Section 14-3-2, NMSA 1978)
- C. "**audit**" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.
- D. "**commission**" means the state commission of public records. (Section 14-3-2, NMSA 1978)
- E. "**pending litigation**" means a proceeding in a court of law whose activity is in progress but not yet completed.
- F. "**record destruction**" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.
- G. "**records management**" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.
- H. "**records retention period**" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.
- I. "**records retention schedule**" means a document prepared as part of a records retention program that lists the period of time for retaining records.

J. "public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein. (Section 14-4-2, NMSA 1978)

K. "non-records" library or museum material of the state library, state institutions and state museums, extra copies of documents reserved only for convenience of reference and stocks of publications and processed documents are non-records. (Section 14-3-2 C NMSA 1978). The following specific types of materials are non-records: extra copies of correspondence; documents preserved only for convenience of reference; blank forms/books which are outdated; materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer/agency; preliminary and non-final drafts of letters; reports and memoranda which may contain or reflect the working or deliberative process by which a final decision or position of the agency, board, department or subdivision thereof is reached; shorthand notes, steno tapes, mechanical recordings which have been transcribed, except where noted on agency retention schedules; routing and other interdepartmental forms which are not significant evidence of the activity concerned and do not otherwise have value as described above; stocks of publications already sent to archives and processed documents preserved for supply purposes only; form and guide letters, sample letters, form paragraphs; subject files, including copies of correspondence, memoranda, publications, reports and other information received by agency and filed by subject (also referred to as reading files or information files). See also item number 1.15.2.101 NMAC of record retention and disposition schedule for general administrative records.

[5-25-95, 5-19-97; 1.17.264.7 NMAC - Rn, 1 NMAC 3.2.92.7, 1-6-02]

1.17.264.8 [RESERVED]

1.17.264.9 INSTRUCTIONS:

A. For records of a general administrative nature, refer to the Records Retention and Disposition Schedule for the General Administrative Records, 1.15.2 NMAC.

B. For records of a financial nature, refer to the Records Retention and Disposition Schedule for General Financial Records, 1.15.4 NMAC.

C. For records of a personnel nature, refer to the Records Retention and Disposition Schedule for the General Personnel Records, 1.15.6 NMAC.

D. For records of medical nature, refer to the Records Retention and Disposition Schedule for the General Medical Records, 1.15.8 NMAC

E. Retention periods shall be extended until six months after all current or pending litigation, current claims, audit exceptions or court orders involving a record have been resolved or concluded.

F. The descriptions of files are intended to be evocative, not complete; for example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

G. Confidentiality is denoted as "-C-". Not all materials in a file may be confidential. Refer to NOTE. Where portions of file may be confidential, refer to legal counsel for agency.

H. Access to confidential documents and or confidential files shall be only by authorization of agency or Attorney General and or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

I. All records, papers or documents may be photographed, microfilmed, micro-photographed or reproduced on film. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. (Section 14-1-5, 14-1-6 NMSA 1978)

J. Data processing and other machine readable records. Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention & disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said record shall be electronically overwritten on machine readable media on which it is stored (or media destroyed). See also 1.13.70 NMAC: Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

[5-25-95, 5-19-97; 1.17.264.9 NMAC - Rn, 1 NMAC 3.2.92.8, 1-6-02]

1.17.264.10 - 100 [RESERVED]

1.17.264.101 PAROLE DOCKET FILES:

- A. **Program:** administrative office of the district attorneys
- B. **Maintenance:** alpha-chronological by institution name and then hearing date.
- C. **Description:** record of parole hearing dates for all New Mexico inmates, including those contracted to out-of-state facilities. File may contain correctional facility name, parole board hearing date, inmate name, penitentiary number, date of birth, cause number, county of conviction, crime, case worker name, release date, etc.
- D. **Retention:** one year after close of calendar year in which created
- E. **Confidentiality:** portions of record may contain confidential information, e.g., juvenile information.

[7-13-98; 1.17.264.101 NMAC - Rn, 1 NMAC 3.2.92.264.101, 1-6-02]

1.17.264.102 VICTIM NOTIFICATION OF RELEASE FORM FILES:

- A. **Program:** administrative office of the district attorneys
- B. **Maintenance:** alpha-chronological by institution and then parole discharge dates
- C. **Description:** record of all parole discharge dates for New Mexico inmates, including those contracted to out-of-state facilities. Form shows correctional facility, inmate name, penitentiary number, date of birth, cause number, county of conviction, crime, release date, parole term, comments, etc.
- D. **Retention:** one year after close of calendar year in which created
- E. **Confidentiality:** portions of record may contain confidential information, e.g., juvenile information.

[7-13-98; 1.17.264.102 NMAC - Rn, 1 NMAC 3.2.92.264.102, 1-6-02]

1.17.264.103 VICTIM NOTIFICATION MEMO:

- A. **Program:** administrative office of the district attorneys
- B. **Maintenance:** chronological by date of memo
- C. **Description:** memo used to notify victim advocates of parole hearing dates, parole dates, discharge dates, and school or work release eligibility dates. Memo may contain inmate name, penitentiary number, date of birth, cause number, county of conviction, crime, parole hearing date, projected release date, date memo generated, etc.
- D. **Retention:** one year after close of calendar year in which created
- E. **Confidentiality:** portions of record may contain confidential information, e.g., juvenile information.

[7-13-98; 1.17.264.103 NMAC - Rn, 1 NMAC 3.2.92.264.103, 1-6-02]

[Retention is for the administrative office of the district attorneys as well as the district offices.]

1.17.264.104 WORK OR SCHOOL RELEASE NOTIFICATION FILES:

- A. **Program:** administrative office of the district attorneys
- B. **Maintenance:** alpha-chronological by institution and then release date
- C. **Description:** record of all inmates scheduled to be released for work or school activities. File may contain inmate name, penitentiary number, date of birth, cause number, county of conviction, crime, release date, etc.
- D. **Retention:** one year after close of calendar year in which created

[7-13-98; 1.17.264.104 NMAC - Rn, 1 NMAC 3.2.92.264.104, 1-6-02]

1.17.264.105 ABSCONDER NOTIFICATION FORMS:

- A. **Program:** administrative office of the district attorneys
- B. **Maintenance:** alphabetical by inmate name
- C. **Description:** record of all inmates who have absconded from parole. Form shows inmate name, penitentiary number, date absconded, social security number, date of birth, last known location, city, address, crime, parole term, possible location, possible person with, name, relationship, victim name, victim address, parole officer

name, telephone number, region and district arrested, warrant issued, date issued, parole officer signature, supervisor signature, etc.

D. **Retention:** three months after file closed

E. **Confidentiality:** portions of the record may contain confidential information, e.g., victim information.

[7-13-98; 1.17.264.105 NMAC - Rn, 1 NMAC 3.2.92.264.105, 1-6-02]

1.17.264.106 VICTIM NOTIFICATION UNIT LOG:

A. **Program:** administrative office of the district attorneys

B. **Maintenance:** alphabetical by institution name

C. **Description:** log of all juveniles being transferred to reintegration centers. Log may show juveniles name, institution number, date of birth, children's court number, county of commitment, crime, facility, move date, etc.

D. **Retention:** one year after close of calendar year in which created

E. **Confidentiality:** portions of the record may contain confidential information, e.g., victim information.

[7-13-98; 1.17.264.106 NMAC - Rn, 1 NMAC 3.2.92.264.106, 1-6-02]

1.17.264.107 206 PRINT-OUT:

A. **Program:** administrative office of the district attorneys

B. **Maintenance:** chronological by date of print-out

C. **Description:** print-out of all New Mexico inmates and their locations, including out-of-state correctional facilities. Print-out may show inmate names, penitentiary numbers, central system number (CSN), location, discharge date, detail location, etc.

D. **Retention:** until superseded by new print-out

[7-13-98; 1.17.264.107 NMAC - Rn, 1 NMAC 3.2.92.264.107, 1-6-02]

1.17.264.108 - 115 [RESERVED]

1.17.264.116 INVESTIGATION CASE FILES:

A. **Program:** district attorney offices

B. **Maintenance:** numerical by case number

C. **Description:** documents gathered during a criminal investigation for the purpose of preparing criminal prosecution. File may contain supplemental investigative reports, search warrants, photographs, crime scene diagrams, witness statements, etc.

D. **Retention:** three years after close of calendar year in which created

E. **Confidentiality:** confidential, 14-2-1D NMSA 1978.

[7-13-98; 1.17.264.116 NMAC - Rn, 1 NMAC 3.2.92.264.201, 1-6-02]

[Retention is on non-action files, i.e., files warranting no further action. Files warranting prosecution become legal case files, Item. No. 1.17.264.117 NMAC.]

1.17.264.117 LEGAL CASE FILES:

A. **Program:** district attorney offices

B. **Maintenance:** numerical by case number

C. **Description:** records concerning criminal prosecution or civil litigation. File may contain police reports, expert reports, investigative material, attorney notes, uniform jury instructions, judgement and sentence, briefs, petitions, correspondence, legal opinions, amicus briefs, juvenile probation officer report, adjudication preparation materials, adjudication orders, etc.

D. **Retention:**

(1) **criminal cases:**

(a) **capital offenses:** 30 years after case closed or until sentence is served, whichever is longer
(b) **non-capital offenses:** ten years after case closed or until sentence is served, whichever is longer

longer

(2) **civil cases:** ten years after case closed

(3) **juvenile cases:** five years after defendant reaches the age of majority

E. Confidentiality: portions of record may contain confidential information, e.g., attorney work product, juvenile information, etc.
[7-13-98; 1.17.264.117 NMAC - Rn, 1 NMAC 3.2.92.264.202, 1-6-02]

1.17.264.118 PRE-PROSECUTION DIVERSION PROGRAM CLIENT FILES:

- A.** **Program:** district attorney offices
- B.** **Maintenance:** chrono-alphabetical by year and then client name
- C.** **Description:** records concerning contracts between the district attorneys office and defendants wanting to settle cases out of court. File may contain program contract, counseling notes, letter of successful termination, rejection letter, copy of restitution, receipts, admission statement, therapeutic notes, psychological assessments, etc.
- D.** **Retention:** ten years after close of calendar year in which case closed
- E. Confidentiality:** portions of records may contain confidential information, e.g., medical information.

[7-13-98; 1.17.264.118 NMAC - Rn, 1 NMAC 3.2.92.264.203, 1-6-02]

1.17.264.119 DEFENDANT CASE CARD INDEX:

- A.** **Program:** district attorney offices
- B.** **Maintenance:** alphabetical by defendant name
- C.** **Description:** reference cards concerning information about a particular case. Cards may show defendant name, case number, type of offense, offense date, victim name, etc.
- D.** **Retention:** until information can be accessed on the case management system, Item No. 1.17.264.126 NMAC

E. Confidentiality: portions of record may contain confidential information, e.g., victim information.
[7-13-98; 1.17.264.119 NMAC - Rn, 1 NMAC 3.2.92.264.204, 1-6-02]
[Duplicate information can be found in the case management system, Item No. 1.17.264.126 NMAC]

1.17.264.120 VICTIM CASE CARD INDEX:

- A.** **Program:** district attorney offices
- B.** **Maintenance:** alphabetical by victim name
- C.** **Description:** reference cards concerning victim information. Cards may show victim name, case number, type of offense, date of offense, defendant name, etc.
- D.** **Retention:** until information can be accessed on the case management system, Item No. 1.17.264.126 NMAC

E. Confidentiality: portions of record may contain confidential information, e.g., victim information.
[7-13-98; 1.17.264.120 NMAC - Rn, 1 NMAC 3.2.92.264.205, 1-6-02]
[Duplicate information can be found in the case management system, Item No. 1.17.264.126 NMAC]

1.17.264.121 CASE LOG:

- A.** **Program:** district attorney offices
- B.** **Maintenance:** chronological by year
- C.** **Description:** log of all case files opened by the district attorneys office. Log may contain case number, case title, assigned district attorney, assigned judge, case status, etc.
- D.** **Retention:** until corresponding case file closed or until information can be accessed on the case management system, Item No. 1.17.264.126 NMAC]

[7-13-98; 1.17.264.121 NMAC - Rn, 1 NMAC 3.2.92.264.206, 1-6-02]

1.17.264.122 CASE LOAD STATISTICS REPORT, MONTHLY:

- A.** **Program:** district attorney offices
- B.** **Maintenance:** chronological by month
- C.** **Description:** report of attorney case load activity and monthly district statistics. Report may include attorney name, number of adult cases opened, number of domestic cases opened, number of DWI cases opened, number of juvenile cases opened, number of grand jury indictments filed, number of felony complaints filed, number of petitions filed, number of closed cases, number of guilty at trial, etc.
- D.** **Retention:** two years after close of calendar year in which created, then transfer to archives for review

[7-13-98; 1.17.264.122 NMAC - Rn, 1 NMAC 3.2.92.264.207, 1-6-02]

1.17.264.123 CASE LIST REPORTS:

- A. **Program:** district attorney offices
- B. **Maintenance:** chronological by date of list
- C. **Description:** report lists active district attorney cases. Report may show defendant name, case number, charges, attorney assigned, investigator assigned, brief status report, victim name, arresting officer, arresting agency, etc.
- D. **Retention:** until superseded by new report

[7-13-98; 1.17.264.123 NMAC - Rn, 1 NMAC 3.2.92.264.208, 1-6-02]

1.17.264.124 VICTIM OR WITNESS FILES:

- A. **Program:** district attorney offices
- B. **Maintenance:** alphabetical by victim name.
- C. **Description:** records concerning the rights of crime victims and witnesses. File may contain notification rights request, action sheet, police report copies, copy of crime victims reparation application, victim intake log, petition, criminal complaint, notification of all court proceedings, etc.
- D. **Retention:** ten years after case close or until sentence is served, whichever is greater
- E. **Confidentiality:** confidential, 31-22-18 NMSA 1978.

[7-13-98; 1.17.264.124 NMAC - Rn, 1 NMAC 3.2.92.264.209, 1-6-02]

1.17.264.125 VICTIM REPARATION FILE:

- A. **Program:** district attorney offices
- B. **Maintenance:** chrono-alphabetical by year and then victim name
- C. **Description:** records concerning victim reparation claims handled and processed by the crime victims reparation commission. File may contain police report copies, copy of crime victims reparation application, funeral expense copies, medical bill copies, etc.
- D. **Retention:** three years after case closed
- E. **Confidentiality:** confidential, 31-22-18 NMSA 1978.

[7-13-98; 1.17.264.125 NMAC - Rn, 1 NMAC 3.2.92.264.210, 1-6-02]

[Official victim reparation claim files are maintained by the crime victims reparation commission.]

1.17.264.126 CASE MANAGEMENT SYSTEM:

- A. **Program:** district attorney offices
- B. **Maintenance:** none
- C. **Description:** system maintains and tracks information on individual district attorney cases. Database may contain defendant and victim names, addresses, dates of birth, magistrate court number, district attorney number, offense date, date case opened, charges, arresting officer, arresting agency, prosecutor name, defense attorney name, judgement and sentence, date case closed, etc.
- D. **Retention:**
 - (1) **criminal cases:**
 - (a) **capital offenses:** 30 years after case closed or until sentence is served, whichever is longer
 - (b) **non-capital offenses:** ten years after case closed or until sentence is served, whichever is longer
 - (2) **civil case file:** ten years after case closed
 - (3) **juvenile case files:** five years after defendant reaches age of majority
- E. **Confidentiality:** portions of database may contain confidential information, e.g., victim and juvenile information.

[7-13-98; 1.17.264.126 NMAC - Rn, 1 NMAC 3.2.92.264.211, 1-6-02]

[Hard copy input records are legal case file, Item No. 1.17.264.117 NMAC.]

1.17.264.127 CASE LIST DATABASE:

- A. **Program:** district attorney offices
- B. **Maintenance:** none

C. **Description:** system maintains and tracks all open district attorney cases. Database may contain defendant name, case number, charges, attorney assigned, investigator assigned, brief status report, victim name, arresting officer, arresting agency, etc.

D. **Retention:** until superseded by new information

E. **Confidentiality:** portions of record may contain confidential information, e.g., victim information.

[7-13-98; 1.17.264.127 NMAC - Rn, 1 NMAC 3.2.92.264.212, 1-6-02]

[Hard-copy input for case list database is the case log, Item No. 1.17.264.121 NMAC]

[Hard-copy output produced by the case list database are case list reports, Item No. 1.17.264.123 NMAC]

[As of 1998, only one district office uses this database.]

1.17.264.128 BRIEF BANK DATABASE:

A. **Program:** district attorney offices

B. **Maintenance:** none

C. **Description:** system maintains legal briefs used as research material for future litigation or prosecution, containing legal argument with citation of legal authority.

D. **Retention:** two years after close of calendar year in which entered into system

[7-13-98; 1.17.264.128 NMAC - Rn, 1 NMAC 3.2.92.264.213, 1-6-02]

[Hard copy input for brief bank database are briefs prepared by district attorneys and filed in legal case files, Item No. 1.17.264.117 NMAC.]

[As of 1998, only one district office uses this database.]

HISTORY OF 1.17.264 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center under:

SRC Rule 74-29, Records Retention and Disposal Schedule for District Attorney Administrator, 11-27-74.

SRC Rule 75-18, Records Retention and Disposal Schedule for New Mexico District Attorneys, 9-15-75.

SRC Rule No. 86-23, Records Retention and Disposition Schedule for Administrative Office of the District Attorneys, 12-10-86.

History of Repealed Material:

1 NMAC 3.2.93.264, Executive Records Retention and Disposition Schedule for Administrative Office of the District Attorney - Repealed, 7-13-98.