

## 305 – Office of the Attorney General File Plan

This file plan was developed to be a guide for Office of the Attorney General employees. This guidance document was created to ensure consistent records classification and to provide agencies with other relevant record information. The final disposition authority resides in the Functional Records Retention and Disposition Schedule (FRRDS), 1.21.2 NMAC.

This file plan only list records series of program's specific to the Office of the Attorney. For records series of a general administrative nature, refer to the General Administrative Records File Plan. For records of a financial nature, refer to the General Financial Records File Plan. For records of a personnel or medical nature, refer to the General Personnel/Medical Records File Plan.

### 305-001 INVESTIGATIVE CASE FILES:

**Division/unit:** Investigations

**Maintenance system:** Numerical by investigative case number

**Record series content:** Records concerning an investigation of alleged violations of the law except for the acts cited in the *statutory acts compliance files*. File may contain motor vehicle records, criminal histories, complaints, evidence, photographs of evidence, copies of search warrants, copies of arrest warrants, assurance of discontinuance, civil investigative demands, civil investigative demand enforcement records, transcripts, newspaper clippings, correspondence, etc.

**Classification:**

(A) **Complaints and referrals that do not result in an investigation:** 1.21.2.107 NMAC, Denied, Rejected or Withdrawn Records

(B) **Records that result in an investigation, but do not become *legal case files*:** 1.21.2.635 NMAC, Investigations – Attorney General

(C) **Records that become *legal case files*:** See *legal case files* 305-003

**File closure:** Date case closed

**Confidentiality:** Portions may be confidential pursuant to: Subsection A of Section 14-2-1 NMSA 1978 (attorney-client privileged information; physical or mental examinations of persons confined to any institution; letters of reference concerning employment; matters of opinion in personnel files; tactical response plans); Section 31-21-6 NMSA 1978 (probation and parole information); Section 24-1-20 NMSA 1978 (medical treatment records); Section 29-10-4 NMSA 1978 (arrest record information concerning those not charged with a crime); Section 32A-3B-32 NMSA 1978 (juvenile records); Section 32A-5-8 NMSA 1978 (adoption records); Section 41-8-4 NMSA 1978 (arson reports); Section 43-2-11 NMSA 1978 (substance abuse treatment); 5 USC, Section 552a (i.e., social security number) and Subsection C of Section 57-1-5 NMSA 1978 (i.e., records obtained prior to the filing of an action under the Antitrust Act).

[New - 03/31/2021]

### 305-002 INVESTIGATION TRACKING SYSTEMS:

**Division/unit:** Investigations

**Maintenance system:** Numerical by primary key

**Record series content:** Systems track and maintain complaints, referrals and investigations concerning alleged violations of law. Data may include inquiry number; date received; date entered; referred by; complainant's date of birth, social security number, address, telephone number; target's name, date of birth, allegations; agent assigned; assignment date; report due date; supervisor name; status of case; case number code; synopsis; details; status; recommendations, etc.

**Classification:**

(A) **Complaints and referrals that do not result in an investigation data:** 1.21.2.107 NMAC, Denied, Rejected or Withdrawn Records

**(B) Records that result in an investigation data, but do not become legal case files:**

1.21.2.635 NMAC, Investigations – Attorney General

**File closure:** Date case closed

**Confidentiality:** Portions may be confidential pursuant to: Subsection A of Section 14-2-1 NMSA 1978 (attorney-client privileged information; physical or mental examinations of persons confined to any institution; letters of reference concerning employment; matters of opinion in personnel files; tactical response plans); Section 31-21-6 NMSA 1978 (probation and parole information); Section 24-1-20 NMSA 1978 (medical treatment records); Section 29-10-4 NMSA 1978 (arrest record information concerning those not charged with a crime); Section 32A-3B-32 NMSA 1978 (juvenile records); Section 32A-5-8 NMSA 1978 (adoption records); Section 41-8-4 NMSA 1978 (arson reports); Section 43-2-11 NMSA 1978 (substance abuse treatment); 5 USC, Section 552a (social security number) and Subsection C of Section 57-1-5 NMSA 1978 (i.e., records obtained prior to the filing of an action under the Antitrust Act).

[New - 03/31/2021]

**305-003 to 305-010**

**305-011 LEGAL CASE FILES:**

**Division/unit:** Legal

**Maintenance system:** Numerical by case number

**Record series content:** Records related to civil or criminal litigation or administrative proceedings, or to the settlement of actual or threatened litigation or administrative proceedings. File may contain decisions, complaints, court orders, motions, pleadings, briefs, transcripts, attorney notes, discovery requests, investigative reports, findings of fact, notices, applications, petitions, conclusions of law, legal exhibits, releases, correspondence, etc.

**Classification:** 1.21.2.637 NMAC, Legal Case Files-Historical

**File closure:** Date case closed

**Confidentiality:** Portions may be confidential pursuant to: Subsection A of Section 14-2-1 NMSA 1978 (attorney-client privileged information; physical or mental examinations of persons confined to any institution; letters of reference concerning employment; matters of opinion in personnel files; tactical response plans); Section 31-21-6 NMSA 1978 (probation and parole information); Section 24-1-20 NMSA 1978 (medical treatment records); Section 29-10-4 NMSA 1978 (arrest record information concerning those not charged with a crime); Section 32A-3B-32 NMSA 1978 (juvenile records); Section 32A-5-8 NMSA 1978 (adoption records); Section 41-8-4 NMSA 1978 (arson reports) and Section 43-2-11 NMSA 1978 (substance abuse treatment).

[New - 03/31/2021]

**305-012 AMICUS BRIEF FILES:**

**Division/unit:** Legal

**Maintenance system:** Chronological by year brief filed

**Record series content:** Records concerning appellate court case briefs in which the attorney general participates as amicus curiae. File may contain legal brief, draft of recommendation, correspondence, etc.

**Classification:** 1.21.2.627 NMAC, Advice and Opinions

**File closure:** Date case closed

[New - 03/31/2021]

**305-013 to 305-020**

**305-021 SPECIAL ATTORNEY COMMISSION FILES:**

**Division/unit:** Special commissions

**Maintenance system:** Chronological by commission expiration date, then alphabetical by attorney surname

**Record series content:** Records concerning special commissions granted by the attorney general allowing lawyers who are not part of the attorney general's office to represent the state in a specific legal matter. Files may contain description of special commission scope, special commission request by the attorney general, starting date of special commission, attorney's resume, letter granting commission, correspondence, etc.

**Classification:** 1.21.2.101 NMAC, Authorization

**File closure:** Date commission expires

[New - 03/31/2021]

### **305-022 to 305-030**

#### **305-031 ATTORNEY GENERAL OPINIONS FILES:**

**Division/unit:** Legal opinions

**Maintenance system:** Chronological by year, then numerical by order within year

**Record series content:** Records concerning the response to a request for a legal opinion by the attorney general submitted by the legislature, any elective or appointive state official, or any district attorney concerning any subject pending before them or under their control with which they have to deal officially or with reference to their duty in office (pursuant to Subsection D of Section 8-5-2 NMSA 1978). File may contain request for opinion, *advisory letter* (or other response to request), background and research material, previous attorney general opinion, drafts of opinion, completed opinion, correspondence, etc.

**Classification:** 1.21.2.627 NMAC, Advice and Opinions

**File closure:** Date opinion issued

[New - 03/31/2021]

### **305-032 to 305-040**

#### **305-041 STATUTORY ACTS COMPLIANCE FILES:**

**Division/unit:** Legal compliance

**Maintenance system:** Alphabetical by act names, then numerical by file number

**Record series content:** Records concerning the complaint and investigation of alleged violations of civil statutory acts (i.e., Lobbyist Registration Act, Sections 2-11-1 through 2-11-9 NMSA 1978; Campaign Reporting Act, Sections 1-19-1 through 1-19-37 NMSA 1978; Public Regulation Commission Act, Sections 8-8-1 through 8-8-21 NMSA 1978; Governmental Conduct Act, Sections 10-16-1 through 10-16-18 NMSA 1978; Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978; and the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978). File may contain complainant form, request for review, outcome of violation, correspondence, etc.

**Classification:** 1.21.2.635 NMAC, Investigations – Attorney General

**Confidentiality:** Portions of this file may be confidential pursuant to Section 14-2-1 NMSA 1978 (i.e., attorney-client privileged information).

**File closure:** Date case closed

[New - 03/31/2021]

#### **305-042 STATUTORY ACTS COMPLIANCE SYSTEM:**

**Division/unit:** Legal compliance

**Maintenance system:** Numerical by primary key

**Record series content:** System captures and maintains complaints and responses pertaining to alleged violations of statutory acts (i.e., Lobbyist Registration Act, Campaign Reporting Act, Public Regulation Commission Act, Governmental Conduct Act, Inspection of Public Records Act and Open Meetings Act).

Data may include complainant name, respondent name, issue, author, record identification number, review status, etc.

**Classification:** 1.21.2.635 NMAC, Investigations – Attorney General

**File closure:** Date case closed

[New - 03/31/2021]

### **305-043 to 305-050**

#### **305-051 SCHOOL BOND ISSUE TRANSCRIPTS:**

**Division/unit:** School bond

**Maintenance system:** Chronological by calendar year issued, then by school district name

**Record series content:** Records concerning the review of proposed school bonds by the AG as to form and legality, pursuant to Section 22-18-9 NMSA 1978 and Section 22-18-7 NMSA 1978. File may contain draft transcript of proceeding, final bond issue transcript of proceedings, copy of the bond, opinions of bond council, opinions of attorney general, resolutions, correspondence, etc.

**Classification:**

**(A) Draft bond issue transcripts and draft material:** 1.21.2.107 NMAC, Denied, Rejected or Withdrawn Records

**(B) Final bond issue transcripts:** 1.21.2.415 NMAC, General-Audits and Compliance

**File closure:** Closed of calendar year in which created

[New - 03/31/2021]

### **305-052 to 305-060**

#### **305-061 AGENCY CONTRACT REVIEW SYSTEM:**

**Division/unit:** Contract reviews

**Maintenance system:** Numerical by primary key

**Record series content:** System tracks the review of state agency contracts conducted by the attorney general's office. Data may include originating agency name, contract identification number, contractor name, attorney general's office reviewing attorney initials, date of submission, date of review, etc.

**Classification:** 1.21.2.121 NMAC, Tracking

**File closure:** Close of calendar year in which contract is reviewed

[New - 03/31/2021]

### **305-062 to 305-070**

#### **305-071 GARNISHMENT FILE:**

**Division/unit:** Garnishment

**Maintenance system:** Alphabetical by surname of garnishee

**Record series content:** Records concerning the request and tracking of state employees' wage garnishment, and other garnishment involving state agencies. File may include application for writ of garnishment, writ of garnishment, answer by garnishee, satisfaction of judgment, correspondence, etc.

**Classification:** 1.21.2.211 NMAC, Deductions and Garnishments

**File closure:** Date case closed

[New - 03/31/2021]

### **305-072 to 305-080**

#### **305-081 AGENCY LEGAL ADVICE FILES:**

**Division/unit:** Civil matters

**Maintenance system:** Alphabetical by client name

**Record series content:** Records concerning advice given by the AGO to state agencies related to miscellaneous civil matters. File may contain background information, court documentation, transcripts, research material, attorney notes, opinion request, correspondence, etc.

**Classification:** 1.21.2.627 NMAC, Advice and Opinions

**File closure:** Date advice issued

**Confidentiality:** Portions of this file may be confidential pursuant to Section 14-2-1 NMSA 1978 (attorney-client privileged information).

[New - 03/31/2021]

### **305-082 to 305-090**

#### **305-091 ADMINISTRATIVE PROSECUTION CASE FILES:**

**Division/unit:** Litigation

**Maintenance system:** Alphanumerical by case name and attorney general number

**Record series content:** Records concerning administrative prosecutions by the AG litigation division initiated at the request of state boards and commissions. Files may contain notice of contemplated action, pleadings, investigative report, minutes of board meetings, board's decision, motions, court appeals, correspondence, etc.

**Classification:** 1.21.2.637 NMAC, Legal Case Files-Historical

**File closure:** Date case closed

**Confidentiality:** Portions may be confidential pursuant to: Subsection A of Section 14-2-1 NMSA 1978 (attorney-client privileged information; physical or mental examinations of persons confined to any institution; letters of reference concerning employment; matters of opinion in personnel files; tactical response plans); Section 31-21-6 NMSA 1978 (probation and parole information); Section 24-1-20 NMSA 1978 (medical treatment records); Section 29-10-4 NMSA 1978 (arrest record information concerning those not charged with a crime); Section 32A-3B-32 NMSA 1978 (juvenile records); Section 32A-5-8 NMSA 1978 (adoption records); Section 41-8-4 NMSA 1978 (arson reports) and Section 43-2-11 NMSA 1978 (substance abuse treatment).

[New - 03/31/2021]

#### **305-092 SERVICE OF PROCESS FILES:**

**Division/unit:** Litigation

**Maintenance system:** Chronological by year, then alphabetical by plaintiff name

**Record series content:** Official notice delivered to the AGO in which a lawsuit is brought against a state agency. File may contain copies of lawsuit, summons, complaint, related attachments, etc.

**Classification:** 1.21.2.636 NMAC, Legal Case Files

**File closure:** Date case closed

[New - 03/31/2021]

#### **305-093 SERVICE OF PROCESS LOGS:**

**Division/unit:** Litigation

**Maintenance system:** Chronological by year

**Record series content:** Records concerning the delivery of summons and lawsuits to the AGO. Log may contain date of service, summary of summons, summary of complaint, etc.

**Classification:** 1.21.2.110 NMAC, Logs

**File closure:** Date of last service process entry

[New - 03/31/2021]

### **305-094 to 305-100**

#### **305-101 CHARITABLE ORGANIZATION FILES:**

**Division/unit:** Charitable organizations registration

**Maintenance system:** Alphabetical by charitable organization name

**Record series content:** Records concerning the registration of charitable organizations soliciting or operating within New Mexico. File contains initial and annual financial information. The initial information may consist of charitable organization registration form, unified registration statement for charitable organizations, copy of IRS letter of determination of non-profit status, copy of *application for recognition of exemption under section 501(a)*, copy of *application for recognition of exemption under section 501(c)(3) of the internal revenue code*, articles of incorporation, correspondence, etc. The annual information may consist of attorney general annual report form, complaint concerning a nonprofit organization, *charitable organization annual report form*, copy of *return of organization exempt from income tax*, copy of *short form return of organization exempt from income tax*, copy of *return of private foundation or section 4947(a)(1) nonexempt charitable trust treated as a private foundation*, copy of associated financial information and all attachments, copy of the organization's annual audit performed by an independent certified public accountant, late fees levied, fees paid, correspondence, etc.

**Classification:** 1.21.2.415 NMAC, General-Audits and Compliance

**File closure:** Closed of fiscal year in which created

[New - 03/31/2021]

### 305-102 to 305-110

#### 305-111 LAND SUBDIVISION FILES:

**Division/unit:** Land subdivisions

**Maintenance system:** Alphabetical by county located in and then by subdivision name

**Record series content:** Records concerning selling, leasing or otherwise conveying of any land in a subdivision, pursuant to Sections 47-6-17 and 47-6-18 NMSA 1978. Files may contain a disclosure statement; copies of adoption and modification of county subdivision regulations; documents concerning the proposed subdivision; brochures; publications; subdivision advertising material; state engineer's report on water availability; maps; plats; correspondence, etc.

**Classification:** 1.21.2.677 NMAC, Land and Easements

**File closure:** Close of fiscal year in which created

[New - 03/31/2021]

### 305-112 to 305-120

#### 305-121 APPEAL CASE FILES:

**Division/unit:** Appeals

**Maintenance system:** Chrono-numeric by attorney general case number (year and sequence within year)

**Record series content:** Records concerning the appeal of court decisions concerning criminal convictions. These case files may include summary case files, general case files, habeas corpus case files and death penalty appeal case files. Summary case files are records concerning the legal appeal of a final judgment of a court including orders of suppression, judgment and sentences, probation and parole violations, orders dismissing causes, interlocutory appeals, etc. Summary case files may contain notice of appeal, docketing statement, calendar notice, memo of opposition, mandates, court order, portions of the record proper, etc. General case files are records concerning the appeal of a final judgment of a court that is unresolved at the summary stage. General case files may contain appeal, docketing statement, calendar notice, memorandum in opposition, brief in chief, answer brief, reply brief, notice for oral argument, court's final opinion, photos, videos, sound recordings, physician reports, psychologist reports, portions of the records proper, etc. Habeas corpus case files are records concerning petitions filed by inmates relating to their conditions of confinement. Habeas corpus case files may contain petitions for writ of habeas corpus, disciplinary packets, investigation records, answers to complaint, motions, final orders, correspondence, etc. Death penalty appeal case files are records concerning the legal appeals of persons

sentenced to death. Death penalty appeal case files may contain prosecution records, defense records, copies of judgment and sentence, order, notice of appeal, statement of issues, calendar notice, videotapes, sound recordings, transcripts, requests for exhibits, brief, state answer brief, reply brief, expert witness information, mandate, correspondence, etc.

**Classification:** 1.21.2.637 NMAC, Legal Case Files-Historical

**File closure:** Date case closed

**Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (1996) (i.e., health information).

[New - 03/31/2021]

### **305-122 to 305-130**

#### **305-131 EXTRADITION REVIEW CASE FILES:**

**Division/unit:** Extraditions

**Maintenance system:** Chronological by year of extradition, then alphabetical by fugitive surname

**Record series content:** Records concerning the review of applications for requisition or rendition of fugitives by the AGO for legal sufficiency. Files may contain affidavit for arrest warrants, photographs, fingerprints, warrants for arrest, criminal complaint affidavit, application for requisition or rendition, application for extradition, waivers of extradition, correspondence, etc.

**Classification:** 1.21.2.629 NMAC, Extraditions and Requisitions

**File closure:** Date case closed

[New - 03/31/2021]

### **305-132 to 305-140**

#### **305-141 WASTE ISOLATION PILOT PLANT FILES:**

**Division/unit:** Environment

**Maintenance system:** Numerical by document number

**Record series content:** Records concerning WIPP compliance with state and federal laws and the development of federal rules and regulations under which WIPP safety is determined. Files may contain technical reports, testimony concerning WIPP, research documents, correspondence, etc.

**Classification:** 1.21.2.111 NMAC, Planning and Development

**File closure:** Date case closed

**Confidentiality:** Portions of this file may be confidential pursuant to Section 14-2-1 NMSA 1978 (attorney-client privileged information).

[New - 03/31/2021]