Subject: Inspection of Public Records Act (IPRA)		Policy Number: ADM: 21
Revision Number: 01	Effective Date: 11/17/2025	Original Issue Date: 11/15/2019

1) PURPOSE

a) This policy is adopted for the purpose of conforming the Department of Public Safety ("DPS")'s processes to the 2007 Settlement Agreement in Rio Grande Sun, et al. v. New Mexico Dept. of Public Safety, et al., New Mexico Second Judicial District Cause No. CV-2005-06554 as well as DPS' duties under the New Mexico Inspection of Public Records Act ("IPRA") NMSA 1978, § 14-2-1 et seq. and to foster the important public policy purpose set forth in the IPRA: to provide to the citizens of New Mexico "the greatest possible information regarding the affairs of government and the official acts of public officers and employees."

2) POLICY

a) It is the policy of the Department to provide the public and media access to public information. The Department will also provide public information in a timely manner as is stated by the Inspection of Public Records Act (IPRA).

3) APPLICABILITY

a) This policy applies to all employees of the Department of Public Safety.

4) REFERENCES

a) Chapter 14 Article 2, NMSA 1978, Inspection of Public Records Act
b) Chapter 29 Article 10, NMSA 1978, Arrest Record Information Act
c) NMAC Rule 1.12.10 Internet, Intranet, Email, and Digital Network Usage
d) CALEA Chapter 54 – Public Information

5) DEFINITIONS

a) **ARIA** - Arrest Records Information Act
b) **IPRA** - Inspection of Public Records Act
c) **Public Information** – Information that may be of interest to the general public regarding policies, procedures, or events involving the Department, or other newsworthy information subject to disclosure. The disclosure should

not unduly interfere with the mission of the New Mexico State Police and the Department, infringe upon the rights of any individual, or compromise the legitimate safety and privacy interests of Department employees, victims, witnesses, or others. All public information releases must conform to the New Mexico Inspection of Public Records Act, and other local and state law.

d) **Records Custodian** – A custodian of public records who receives and responds to requests to inspect public records. The records custodian provides reasonable opportunities, and facilities, to inspect public records.

6) OPERATIONAL PROCEDURES

a) Upon receipt of any IPRA Request, the records custodian, or an agent of the records custodian, shall conduct an initial review to determine if the request is considered a public record based on the definition in Section 14-2-6 of the IPRA. The records custodian, or an agent thereof, shall also determine whether records requested fall under exceptions to the disclosure IPRA requires. IPRA contains exceptions for the following records:

i) records pertaining to physical or mental examinations and medical treatment of persons confined to an institution;

ii) letters of reference concerning employment, licensing or permits;

iii) letters or memoranda that are matters of opinion in personnel files or students' cumulative files;

iv) law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime. Law enforcement records include evidence in any form received or compiled in connection with any criminal investigation or prosecution by a law enforcement or prosecuting agency, including inactive matters or closed investigations to the extent that they contain the information listed in this paragraph;

v) as provided by the Confidential Materials Act;

vi) trade secrets, attorney-client privileged information and long- range or strategic business plans of public hospitals discussed in a properly closed meeting;

vii) tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack; and

viii) as otherwise provided by law.

b) It is the designated records custodian's responsibility to determine whether any material responsive to a records request falls within any enumerated exception to inspection under IPRA. If any person, including law enforcement officers or prosecutors, suggests to the records custodian that an exemption applies, the records custodian may consider that objection. The determination whether all or part of a record is public under IPRA and in accordance with this policy, however, remains the designated records custodian's responsibility.

c) **Original Records of Entry**

i) DPS shall treat 911 tapes, 911 transcripts, initial incident reports, initial offense reports, accident and traffic offense reports, radio tapes, dispatch tapes, radio logs, mug shots and CAD printouts as "original records of entry" as defined by the ARIA in Section 29-10-7(A)(2). DPS shall make all such "original records of entry' available for inspection and copying on or before the deadlines imposed by IPRA without any redaction, omission or claim of exemption. DPS shall not, either in whole or part, change its practice of creating original records of entry to avoid creating a public record. "Original Records of Entry" shall mean the State of New Mexico Uniform Incident Report currently employed by DPS and other law enforcement agencies, an example of which is attached to this policy as Exhibit A and includes the initial narrative of all law enforcement officers who respond to the scene of an incident. Any supplemental report including an initial narrative of a responding officer will be considered an "original record of entry" under ARIA.

ii) All officers will be instructed by the Cabinet Secretary or the Chief of the New Mexico State Police that they are to include their initial narrative in primary incident reports.

iii) The records custodian will produce all primary incident reports, with the initial narrative of all officers, without waiting for additional documents. DPS is not required to maintain non-final drafts for purposes of future IPRA requests, but DPS may not change or delete documents to avoid producing them in response to a request.

iv) DPS shall not deny requests for original records of entry on the grounds that the record(s) are "not yet completed", instead, within the 15-day

time limit imposed by Section 14-2-8(D), DPS shall produce the records requested in whatever form they exist.

d) **Production of Other Responsive Records**

i) The records custodian will authorize withholding requested records and information upon a determination in writing that one of the listed exceptions under IPRA applies.

ii) For all public records other than "original records of entry," DPS shall produce the records before the expiration of the time limits imposed by the IPRA but may redact information exempted from disclosure under the IPRA or the ARIA if DPS produces the portions of the records that do not fall under an IPRA exception.

iii) DPS's release of information obtained from the National Crime Information Center (NCIC) data shall be consistent with the statutes and regulations, and federally mandated requirements under the FBI CJIS Security Policy, governing the release of such information.

iv) Should DPS elect to make any redactions, it must identify for the requester in writing the reasons for each redaction.

v) All written responses by DPS must be signed by the public records custodian and detail the specific and non-speculative reasons why DPS believes the release of the information requested is exempt from disclosure under IPRA and/or ARIA. The written response shall describe in reasonable detail the legal and factual basis for any claim of exemption under the IPRA or ARIA.

vi) DPS shall withhold entire record(s) only if no part of the record may be produced without disclosing information protected under the IPRA or the ARIA.

vii) DPS shall not delay the production of any public record that is otherwise available for production solely because the full 15-day time limit in Section 14-2-8(D) has not yet expired. The piecemeal release of records during that 15-day time limit is not required if the records custodian does not receive the records at one time.

viii) DPS shall treat emails and facsimile requests as "written requests."

ix) DPS will not deny requests when it is unable to gather documents within 15 days The records custodian instead will inform the requester that the request is excessively burdensome and produce the records within a reasonable time.

x) DPS will withhold entire records only if no part can be produced without disclosing materials subject to an IPRA exemption.

xi) In any written explanation of the denial of a records request, DPS will state the names and titles or positions of each person responsible for the denial.

xii) The procedure for inspection of DPS records must comply with the procedure set forth in §14-2-9 of IPRA. If the request specifically seeks public records in electronic format and the public records are available in electronic format, DPS will provide copies of the public records in electronic format. However, DPS is only required to provide electronic records in the file format in which they exist at the time of the request. Where applicable, DPS may charge for any applicable costs and fees permitted by §14-2-9.

xiii) DPS may not redact allegations, charges, outcomes, or other non-opinion information in records, including those submitted to the Law Enforcement Academy Board, based on IPRA §14-2-1(A)(3).

xiv) DPS will redact only personal identifying information as defined in §14-2-6(E) of IPRA, which does not currently define "protected personal identifier information" to include telephone numbers or mailing addresses.

xv) DPS shall not redact the identity of person(s) in law enforcement records through the use of inapplicable exemptions under the IPRA and the ARIA, such as the grounds that the "information sought to be discovered pertains to illness, injury, disability, inability to perform job task, sick leave and physical or mental examinations or medical treatment or that the information is protected by a "public interest" privilege, when the identity of the person(s) could be revealed without releasing the exempt information.

xvi) A person who requests to inspect public records in person may spend as much time as needed to complete the inspection. The records custodian may, however, notify the requestor that reasonable limitation on the time for inspection is necessary for each day or on any particular day. Prior to the inspection, the records custodian will give notice of any necessary limitations and the reason(s) for the limitations whenever possible. If the requester needs more than one day to complete the inspection, the requester may return on another day.

e) **Application of Specific IPRA Exemptions: "Law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime."**

i) DPS shall maintain the confidentiality of any information that is required to be kept confidential under ARIA.

ii) When applying this exemption under NMSA 1978, §14-2-1(D)(1) & (2)(a) and §29- 10-4, DPS shall not withhold any information unless it can show that the release of the records poses demonstrable and serious harm to an existing or contemplated criminal prosecution or investigation. DPS shall provide the specific factual basis for this showing in its written response, without revealing any information protected by ARIA.

iii) In addition to the above requirement:

(1) DPS may redact information from public records under the exemption under NMSA 1978, §14-2-1(D)(1) and §29-10-4 regarding "law enforcement records that reveal confidential sources, methods, [or] information" only if the information is not generally known and the information consists of:

(a) The name, social security number, telephone number, address or other identifying information regarding confidential sources;

(b) Information regarding confidential police methods or techniques, such as the use of surveillance techniques, hidden microphones, hidden cameras, or similar methods, or the identity of undercover officers so long as the identity of the officer is not disclosed in an original record of entry or other public record; or

(c) Other confidential information, such as the identity and location of evidence not yet obtained, the identity and location of witnesses not yet interviewed, or the identity and location of suspects not yet detained.

(2) DPS may redact information from public records under the exemption under NMSA 1978, §14-2-1(D)(2)(a) and §29-10-4 regarding individuals accused but not charged with a crime" only if:

(a) The information subject to redaction actually reveals the identity of individual(s) accused but not charged with a crime;

(b) The identity of such individual(s) is not generally known;

(c) The identity of such individual(s), if released, would pose demonstrable and serious harm to an existing or contemplated criminal prosecution or investigation, such as tipping off a potential

suspect, facilitating the destruction of evidence, or allowing a suspect to flee from the jurisdiction; and

(d) Such individual(s) had not been arrested, cited, charged, identified in an original record of entry, or detained at the time the request for record(s) was made.

(3) Every June and December, DPS shall review the IPRA logit shall maintain as described in Sections G(2) through G(4) below and shall release the entire record for which the exemptions under NMSA 1978, §14-2-1(D)(2) and§ 29-10-4 was claimed as soon as is practicable if the source(s), method(s) or information no longer qualifies for exemption under these provisions.

f) **Application of Specific IPRA Exemptions: "As Otherwise Provided by Law"**

i) Unless DPS provides a contemporaneous written explanation citing to a statute or regulation that makes it unlawful for DPS to release the information, DPS shall not deny requests for law enforcement records or original records of entry under this exemption on the grounds that disclosure would:

(1) Violate an individual's right to privacy; and/or

(2) Violate any federal or state telecommunications law.

ii) DPS shall not redact information from law enforcement records or original records of entry under this exemption on the grounds that the record(s) are protected by "executive privilege."

iii) Nothing herein shall be construed to limit the Governor's power to invoke executive privilege.

iv) DPS shall not use this exemption to deny requests on grounds that the record(s) are "not yet completed."

g) **DPS IPRA Log, Log Review, and Requires Record-Keeping**

i) DPS must retain in its files its written response to public records requests and any supporting documentation for at least three (3) years from the date that it makes a written response to an IPRA request.

ii) DPS shall maintain a log of all written requests for public records under IPRA received by the agency. The log shall show:

(1) The date(s) on which such request(s) are received, and the name and materials requested;

(2) The date(s) on which DPS responded to the request(s);

(3) The basis for any denials or redactions;
(4) The name(s) of person(s) consulted regarding DPS's response(s) to the request(s);
(5) The name(s) of person(s) responsible for responding to the request(s) on behalf of DPS; and
(6) The existence of any supporting materials substantiating a claim of exemption.

iii) DPS's records custodian shall review this log at least monthly to ensure that:
(1) DPS is responding to public records requests within the time limits imposed by IPRA;
(2) DPS has invoked the proper basis under the IPRA or the ARIA for denying public records requests;
(3) DPS's IPRA responses are consistent with the requirements of DPS's 2007 and 2019 Settlement Agreements; and
(4) The log complies with this policy and both Settlement Agreements.

iv) The DPS log shall be available for public inspection under IPRA.

h) **Policies and Training to Secure DPS Compliance**

i) DPS shall conduct annual training regarding IPRA for all DPS personnel, including the Department's legal obligations under the 2007 and 2019 Settlement Agreements in Rio Grande Sun, et al. v. New Mexico Dept. of Public Safety, et al., No. CV-2005- 06554 and Rio Grande Sun, et al. v. New Mexico Dept. of Public Safety, et al., No. D117-CV-2017-00245.
(1) For New Mexico State Police Officers, the training will include, but not be limited to, DPS's obligation to include in the initial incident report the initial narrative of all law enforcement officers who respond to the scene of an incident.
(2) DPS will update its training materials to reflect that the New Mexico Supreme Court has eliminated the "rule of reason" it had recognized in Newsom v. Alarid, 1977-NMSC-076.

ii) DPS's records custodian shall review at least yearly this policy, any other DPS policy related to handling public records, and DPS training to ensure that all DPS employees delegated the discretion by DPS to handle IPRA requests have been trained in the requirements of the IPRA, the ARIA, the 2007 Settlement Agreement, and the 2019 Settlement Agreement.

iii) DPS shall be responsible for informing the Cabinet Secretary, the Chief of the New Mexico State Police, all division directors and department heads, and all other supervisory personnel of the Department's obligations under the 2007 Settlement Agreement and the 2019 Settlement Agreement, and any applicable state and federal laws. This shall include providing them with a copy of this policy and the Settlement Agreements.

7) ATTACHMENTS

a) **Exhibit A- Uniform Incident Report**

8) APPROVAL

APPROVED BY: _____ **DATE:** 11/17/25

DPS Cabinet Secretary