

**TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT  
CHAPTER 2 DEPARTMENT OF PUBLIC SAFETY  
PART 5 CLASSIFYING CONFIDENTIALITY OF INFORMATION AND RECORDS IN MISSING PERSONS INVESTIGATIONS.**

**10.2.5.1 ISSUING AGENCY:** Department of Public Safety  
[10.2.5.1 NMAC - N/E, 1/15/2026]

**10.2.5.2 SCOPE:** All information and records that are otherwise confidential under state and federal law; or that are related to the investigation by a law enforcement agency of a missing person or unidentified human remains, if the Department of Public Safety, in consultation with the law enforcement agency, determines that release of the information would be deleterious to the investigation; or the Department of Public Safety determines the release of information might interfere with an investigation by law enforcement or otherwise harm a person, custodian or reporter, shall be deemed to be confidential.  
[10.2.5.2 NMAC - N/E, 1/15/2026]

**10.2.5.3 STATUTORY AUTHORITY:** This rule is promulgated pursuant to Section 9-19-6 E. NMSA 1978 of the Department of Public Safety Act; Section 29-15-11 NMSA 1978, which charges the Department of Public Safety with creating a rule to classify certain information and records as confidential; Sections 29-15-3 (A-D) NMSA 1978; and Sections 29-15-3 through 29-15-3.5 NMSA 1978.  
[10.2.5.3 NMAC - N/E, 1/15/2026]

**10.2.5.4 DURATION:** One hundred and eighty days.  
[10.2.5.4 NMAC - N/E, 1/15/2026]

**10.2.5.5 EFFECTIVE DATE:** January 15, 2026, unless a later date is cited at the end of a section.  
[10.2.5.5 NMAC - N/E, 1/15/2026]

**10.2.5.6 OBJECTIVE:**

A. The objective of this rule is to ensure that certain sensitive information and records related to missing persons cases can remain confidential. This is in accordance with other state and federal laws that provide for the classification of certain information and records as confidential. Section 29-15-11 NMSA 1978 specifically recognizes that the release of certain sensitive information would interfere with and be deleterious to active missing persons investigations, or otherwise harm a person, custodian, or reporter. This Statute authorizes the Department of Public Safety to categorize as confidential any information or records related to missing persons or human remains in the state.

B. The State has specific obligations to ensure that Missing Persons cases are thoroughly investigated in a timely manner. Releasing sensitive information could impede the speed at which the investigations are conducted, as well as their outcome. This is particularly concerning for the most vulnerable populations within the State. Examples of these populations include survivors of domestic violence as well as members of historically marginalized groups, including indigenous peoples.  
[10.2.5.6 NMAC - N/E, 1/15/2026]

**10.2.5.7 DEFINITIONS:** For purposes of this rule, the following terms have the following meaning:

- A. "Clearinghouse" means the missing persons information clearinghouse;
- B. "Custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child or of an adult with a developmental disability; or a person who performs one or more activities of daily living for an adult;
- C. "Department" is the Department of Public Safety;
- D. "Indigenous Peoples": The descendants of the original inhabitants who lived in what is now known as North America before colonization or settlement. This recognizes the Nations, Tribes, and Pueblos located within the exterior bounds of New Mexico, but is not limited to just these communities.
- E. "Endangered person" means a missing person who:

- (1) is in imminent danger of causing harm to the person's self;
- (2) is in imminent danger of causing harm to another;
- (3) is in imminent danger of being harmed by another or who has been harmed by another;
- (4) has been a victim of a crime as provided in the Crimes Against Household Members Act,

Sections 30-3-10 through 30-3-18, NMSA 1978 or in Section 30-3A-3 or 30-3A-3.1, NMSA 1978, or their equivalents in any other jurisdiction;

- (5) is or was protected by an order of protection pursuant to the Family Violence Protection Act, Chapter 40, Article 13, NMSA 1978;
- (6) has Alzheimer's disease, dementia, or another degenerative brain disorder, or a brain injury; or

(7) has a developmental disability as defined in Subsection A of Section 28-16A-6, NMSA 1978, and that person's health or safety is at risk;

F. "Immediate family member" means the spouse, nearest relative or close friend of a person;

G. "Law Enforcement Agency" means a law enforcement agency of the state, tribal law enforcement a state agency or a political subdivision of the state;

H. "Missing Person" means a person whose whereabouts are unknown to the person's custodian or immediate family member, and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily, and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

I. "Missing Person Report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

J. "Person" means an individual, regardless of age;

K. "Possible match" means the similarities between unidentified human remains and a missing person that would lead one to believe they are the same person;

L. "Reporter" means the person who reports a missing person;

M. "Records" are related to the investigation by a law enforcement agency of a missing person or unidentified human remains.

[10.2.5.7 NMAC - N/E, 1/15/2026]

#### **10.2.5.8 CLASSIFICATION OF INFORMATION AND RECORDS AS CONFIDENTIAL:** Public records described in sections a-d are presumptively classified as confidential:

A. Records that are confidential under state or federal law or rules adopted pursuant to state or federal law;

B. Records that are related to the investigation by a law enforcement agency of a missing person or unidentified human remains, if the Department, in consultation with the law enforcement agency, determines that release of the information would be deleterious to the investigation;

C. Records or notations that the clearinghouse maintains for internal use in matters relating to missing persons and unidentified human remains, and the department of public safety determines that release of the internal documents might interfere with an investigation by a law enforcement agency in New Mexico or any other jurisdiction; or

D. Records that the Department or law enforcement agency determines might interfere with an investigation or otherwise harm a person, custodian, or reporter.

[10.2.5.8 NMAC - N/E, 1/15/2026]

#### **10.2.5.9 EXCEPTIONS TO SHARING CONFIDENTIAL INFORMATION:** These rules do not bar the sharing of confidential information with:

A. the custodian or immediate family members of the missing person, except as pursuant to Subsection C of Section 29-15-5 NMSA 1978;

B. the clearinghouse pursuant to Section 29-15-3 NMSA 1978; and

C. law enforcement agencies pursuant to Section 29-15-10 NMSA 1978.

[10.2.5.9 NMAC - N/E, 1/15/2026]

#### **10.2.5.10 PROCEDURES TO SHARING CONFIDENTIAL INFORMATION:**

**A.** The custodian or immediate family member may request confidential information orally or in writing from a law enforcement agency regarding a missing person or a missing person's report. Upon receipt of the request, the law enforcement agency shall immediately request information concerning the reported missing person from the clearinghouse pursuant to Subsection A of Section 29-15-5, NMSA 1978.

**B.** The law enforcement agency that received a request for confidential information regarding a reported missing person must determine if release is authorized by the exceptions listed in 10.2.5.8 NMAC. If no exception applies, the law enforcement agency will deny the request and provide the requester with the authority for the denial and the name of the person denying the request.

**C.** The Department shall share confidential information through the clearinghouse pursuant to Subsection B of Section 29-15-11 NMSA 1978.

**D.** The Department shall share information within thirty days to the national missing and unidentified persons system created by the United States Department of Justice's National Institute of Justice pursuant to Section 29-15-3.4 NMSA 1978.

[10.2.5.10 NMAC - N/E, 1/15/2026]

#### **10.2.5.11 PROCEDURE FOR DENIED REQUESTS:**

**A. Petition for internal administrative review of the Department's denial of access.** Any requester who objects to the initial denial or partial denial of a request for confidential information about a missing person may petition in writing to the Department's supervising officer or designee for a review of that decision. The petition shall include a copy of the denial or reasonably identify the reason for the denial of the request and the name of the officer who denied the request.

**B. Consideration of petition for review.** The Department's supervising officer or designee shall promptly request all relevant information from the officer who initially denied the request. The Department's supervising officer or designee shall conduct a review and may either affirm or reverse the initial denial. The review and decision will be conducted within the time frame agreed upon by the Department's supervising officer or designee and the requester. The Department's supervising officer or designee's decision is final.

**C. Petition for internal administrative review of the denial of access by other law enforcement organizations.** Any person who objects to the initial denial or partial denial of a request for confidential information of a missing person may utilize that law enforcement agencies' appeal procedure.

[10.2.5.11 NMAC - N/E, 1/15/2026]

#### **HISTORY OF 10.2.5 NMAC: [RESERVED]**