

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 17 JUDICIAL RECORDS RETENTION AND DISPOSITION SCHEDULES (JRRDS)
PART 218 JRRDS, NEW MEXICO MAGISTRATE COURTS

1.17.218.1 ISSUING AGENCY: New Mexico Commission of Public Records - State Records Center and Archives in conjunction with the New Mexico Supreme Court.
[5-25-95; 1.17.218.1 NMAC - Rn, 1 NMAC 3.2.92.1, 1-6-02; A, 7-3-04]

1.17.218.2 SCOPE: New Mexico magistrate courts
[5-25-95; 1.17.218.2 NMAC - Rn, 1 NMAC 3.2.92.2, 1-6-02; A, 7-3-04]

1.17.218.3 AUTHORITY: Section 14-3-1 NMSA 1978. The state records administrator shall establish records disposal schedules for the orderly retirement of records in compliance with the Public Records Act.
[5-25-95, 5-19-97; 1.17.218.3 NMAC - Rn, 1 NMAC 3.2.92.3, 1-6-02; A, 7-3-04]
[Amendment of this rule may require the issuance of a court order.]

1.17.218.4 DURATION: Permanent
[5-25-95, 5-19-97; 1.17.218.4 NMAC - Rn, 1 NMAC 3.2.92.4, 1-6-02]

1.17.218.5 EFFECTIVE DATE: May 19, 1997 unless a different date is cited at the end of a section.
[5-25-95, 5-19-97; 1.17.218.5 NMAC - Rn, 1 NMAC 3.2.92.5, 1-6-02]

1.17.218.6 OBJECTIVE: To establish a records disposal schedules for the orderly management and retirement of records necessary for carrying out the Public Records Act per 14-3-6 NMSA 1978.
[5-25-95, 5-19-97; 1.17.218.6 NMAC - Rn, 1 NMAC 3.2.92.6, 1-6-02; A, 7-3-04]

1.17.218.7 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.** "Note bene" stands for information important for the administration of the retention period.
- F.** "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.
- G.** "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.
- H.** "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.
- I.** "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.
- J.** "Records retention schedule" means a document prepared as part of a records retention program that lists the period of time for retaining records.
- K.** "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)
- L.** "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; 1.17.218.7 NMAC - Rn, 1 NMAC 3.2.92.7, 1-6-02; A, 7-3-04]

1.17.218.8 ABREVIATIONS AND ACRONYMS:

- A. "AOC" stands administrative office of the courts.
- B. "DWI" also stands for driving while impaired.
- C. "GRRDS" stands for general records retention and disposition schedule.
- D. "JRRDS" stands for judicial records retention and disposition schedule.
- E. "FACTS" stands for *family automated client tracking system*.

[1.17.218.8 NMAC - N, 7-3-04]

1.17.218.9 INSTRUCTIONS:

- A. For records of a general administrative nature, refer to the GRRDS, Records Retention and Disposition Schedule for the General Administrative Records, (For Use by Local Government and Educational Institutions) 1.15.3 NMAC.
- B. For records of a financial nature, refer to the GRRDS, General Financial Records Retention and Disposition Schedule (Interpretive), 1.15.5 NMAC. The magistrate court does not voucher through the New Mexico department of finance and administration but rather through the business office of the AOC. The retentions for financial documents held by the AOC business office are identified as "finance department copy." The retentions for financial documents held by the magistrate court business office are identified as "other department copy".
- C. For records of a personnel nature, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule (Interpretive), 1.15.7 NMAC. Employment at the magistrate court does not go through the New Mexico state personnel office but rather through the human resources office of the AOC. The retentions for personnel documents held by the AOC human resource office are identified as "personnel department copy." The retentions for personnel documents held by the magistrate court human resource office are identified as "other department copy.
- 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 for files likely to contain confidential materials, but files without a confidentiality note nonetheless may contain confidential or privileged materials and failure to include an express confidentiality note in the description of a file does not waive the confidential or privileged nature of those materials. Refer questions concerning the confidentiality of a file or portions of a file to legal counsel for the 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. Electronic 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 and 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 over-written 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; 1.17.218.9 NMAC - Rn, 1 NMAC 3.2.92.8, 1-6-02; A, 7-3-04]

1.17.218.10 - 1.17.218.100 [RESERVED]

1.17.218.101 COURT AGENDA:

- A. Program:** general records
 - B. Maintenance:** chronological by setting date
 - C. Description:** record by day of settings in the court. Record shows court date, judges, violation date, citation number, defendant name, docket number, etc.
 - D. Retention:** 30 days after scheduled court date
- [5-11-94, 1-10-97, 5-19-97; 1.17.218.101 NMAC - Rn, 1 NMAC 3.2.92.218.03.101, 1-6-02; A, 7-3-04]
[NOTE: court agenda is also known as docket call or court calendar.]

1.17.218.102 [RESERVED]

[5-11-94, 1-10-97, 5-19-97; 1.17.218.102 NMAC - Rn, 1 NMAC 3.2.92.218.03.102, 1-6-02; Repealed, 7-3-04]
[Repealed section (records series name): *court clerk case load summary report, monthly*]

1.17.218.103 [RESERVED]

[5-11-94, 1-10-97, 5-19-97; 1.17.218.103 NMAC - Rn, 1 NMAC 3.2.92.218.03.103, 1-6-02; Repealed, 7-3-04]
[Repealed section (records series name): *docket book*]

1.17.218.104 OATH OF OFFICE FILE:

- A. Program:** general records
 - B. Maintenance:** none
 - C. Description:** oaths of office administered by magistrate court judge to municipal judges, municipal officials, and school board members. Oaths show name of judge, name of clerk, court, date, oath and affirmation, signatures, seal, etc.
 - D. Retention:** permanent. Transfer to the New Mexico state archives after five years.
- [5-11-94, 1-10-97, 5-19-97; 1.17.218.104 NMAC - Rn, 1 NMAC 3.2.92.218.03.104, 1-6-02; A, 7-3-04]

1.17.218.105 [RESERVED]

[5-11-94, 1-10-97, 5-19-97; 1.17.218.105 NMAC - Rn, 1 NMAC 3.2.92.218.03.105, 1-6-02; Repealed, 7-3-04]
[Repealed section (records series name): *judgment copies file*]

1.17.218.106 JUROR DOCUMENT FILE:

- A. Program:** general records
 - B. Maintenance:** chronological by date juror pool created
 - C. Description:** record concerning jury composition. File may contain court orders, statistical reports, juror summons, juror questioners, excusals, postponements, juror list, correspondence, memoranda, etc.
 - D. Retention:** six months after date created or until next jury is created whichever is longer
 - E. Confidentiality:** Portions of this file may be confidential (e.g., juror address, juror telephone number, juror questionnaire).
- [5-11-94, 1-10-97, 5-19-97; 1.17.218.106 NMAC - Rn, 1 NMAC 3.2.92.218.03.106, 1-6-02; A, 7-3-04]

1.17.218.107 MONTHLY TRANSACTION REPORT FILE:

- A. Program:** general records
- B. Maintenance:** chronological by fiscal year then by month
- C. Description:** copy of monthly report prepared by the administrative office of the courts and sent to magistrate court for signature and verification. File also contains copies of those financial documents submitted to the AOC for creating the monthly transaction report. Those documents include: cash bond record; schedule of partial payments; outstanding check schedule, bank statements, etc.

D. Retention: three years after close of fiscal year in which created
[6-5-76, 1-10-97, 5-19-97; 1.17.218.107 NMAC - Rn, 1 NMAC 3.2.92.218.03.107, 1-6-02; A, 7-3-04]
[Original report is returned to the AOC after verified and signed by the magistrate court.]

1.17.218.108 BOND FILES:

A. Program: general records
B. Maintenance: alphabetical by defendant name
C. Description: Record concerning the cash or surety posted to procure the release of a defendant and to ensure his or her future appearance in court, compelling him or her to remain in the jurisdiction of the court. File may contain appearance property bond and power of attorney, order setting conditions of release bail bond, agreement to comply with all conditions of release, etc.

D. Retention:
(1) Charges filed: until filed in case file
(2) No charges filed: one year after date created
[6-5-76, 1-10-97, 5-19-97; 1.17.218.108 NMAC - Rn, 1 NMAC 3.2.92.218.03.108, 1-6-02; A, 7-3-04]

1.17.218.109 BOND BOOK:

A. Program: financial
B. Maintenance: chronological by date posted
C. Description: Record of cash or surety to be posted for release of a defendant on bail. Record may show cashier, person posting cash or surety, cash or surety amount, defendant name, date posted, amount posted, check number, bond number, docket number, arrest number, fines, court costs, amount and date of bond returned, etc.

D. Retention: three years after close of fiscal year in which last bond contained is disposed
[1.17.218.109 NMAC - N, 7-3-04]

1.17.218.110 COURT PERFORMANCE CERTIFICATION FILE:

A. Program: financial
B. Maintenance: chronological by date posted
C. Description: Financial control record concerning the certification of services performed in the court and submitted to the AOC for payment. Record may show type of service, date of performance, case number, court, certified performance, amount to be paid by the AOC.

D. Retention: three years after close of fiscal year in which last bond contained is disposed
[1.17.218.110 NMAC - N, 7-3-04]
[Court services include those of interpreter, expert witness, jury, guardian ad litem, etc.)]

1.17.218.111 - 1.17.218.120 [RESERVED]

1.17.218.121 CRIMINAL CASE FILE:

A. Program: criminal matters
B. Maintenance: numerical by case number
C. Description: record of criminal proceedings before the magistrate court. File may contain criminal complaint, arrest warrants, arraignment sheet, bonding documents, preliminary hearing papers, request for hearing, motions, disposition instruction sheet, citation, etc.

D. Retention: one year after case dismissed, entry of judgment or final order, provided audit report has been released, and provided all conditions of judgment have been met

E. Note bene
(1) If complaint filed, issuance of a search warrant requires the creation of case file and docket card. If no complaint filed, search warrant shall be destroyed one year after date warrant issued.

(2) When citations are filed, a docket number shall be issued and a case file created.
(3) DWI files resulting in conviction after July 1, 1985 shall not be destroyed until data has been transferred to an approved JISC system in accordance with JISC guidelines.

(4) *Criminal case file* shall not be destroyed until corresponding bonds are disposed.
[6-5-76, 1-10-97, 5-19-97; 1.17.218.121 NMAC - Rn, 1 NMAC 3.2.92.218.03.201, 1-6-02; A, 7-3-04]

1.17.218.122 CRIMINAL PROCEEDINGS RECORDING:

- A. **Program:** criminal matters
- B. **Maintenance:** numerical by docket number [tapes may be maintained chronological by court date]
- C. **Description:** verbatim record of court proceedings (e.g., tapes, court reporter notes, transcripts, etc.)
- D. **Retention:**
 - (1) **Appeal or bound over to district court:** until transferred to district court
 - (2) **No appeal or remanded from district court:** six months after judgment date (SCRA 1986, 6-202B)
- E. **Note bene:** Tapes may be destroyed when the transcript thereof has been accepted by the court. [4-23-81, 1-10-97, 5-19-97; 1.17.218.122 NMAC - Rn, 1 NMAC 3.2.92.218.03.202, 1-6-02; A, 7-3-04]

1.17.218.123 CRIMINAL EXHIBITS:

- A. **Program:** criminal matters
- B. **Maintenance:** numerical by docket number
- C. **Description:** materials introduced as evidence in court case. Materials include documents (e.g., depositions, interrogatives, requests for admission, reports, etc.), personal possessions, weapons, etc.
- D. **Retention:**
 - (1) **Appeal or bound over to district court:** until transferred to district court
 - (2) **No appeal or remanded from district court:** 30 days after judgment date
- E. **Confidentiality:** Individual exhibits may be confidential by protective court order.
- F. **Note bene:** Unless otherwise ordered by the court, parties or their attorneys shall be given written notice by the clerk that the exhibits in the custody of the clerk will be disposed of 30 days from the date of notice unless retrieved by them. Clerks may release exhibits to the introducing parties or their attorneys as soon as the retention has been met, whether or not disposition notice has been issued. An exhibit remains the property of the party tendering the exhibit. Failure of a party to repossess an exhibit within sixty days from notice of the court terminates the legal interest of the party in that exhibit. [5-11-94, 1-10-97, 5-19-97; 1.17.218.123 NMAC - Rn, 1 NMAC 3.2.92.218.03.203, 1-6-02; A, 7-3-04]

1.17.218.124 [RESERVED]

[6-5-76, 1-10-97, 5-19-97; 1.17.218.124 NMAC - Rn, 1 NMAC 3.2.92.218.03.204, 1-6-02; Repealed, 7-3-04]
 [DWI docket card indices created between July 1985 and June 1995 shall not be destroyed until docket information has been entered in the FACTS system.]
 [Repealed section (records series name): *criminal docket card index*]

1.17.218.125 - 1.17.218.130 [RESERVED]

1.17.218.131 CIVIL CASE FILE:

- A. **Program:** civil matters
- B. **Maintenance:** numerical by case number
- C. **Description:** record of civil proceedings before the magistrate court. File may contain complaint, request for hearing, answer, counter-claims, motions, pretrial orders, entry of appearance, settings, tape control sheets, orders, judgments, notice of appeal, remands, writs, garnishments, executions, satisfaction judgments, correspondence, memoranda, etc.
- D. **Retention:** one year after case dismissed or until satisfaction of judgment, provided audit report has been released, but not more than 14 years after judgment date unless judgment is revived: then seven years after revival date. [6-5-76, 1-10-97, 5-19-97; 1.17.218.131 NMAC - Rn, 1 NMAC 3.2.92.218.03.301, 1-6-02; A, 7-3-04]

1.17.218.132 CIVIL PROCEEDINGS RECORDING:

- A. **Program:** civil matters
- B. **Maintenance:** numerical by docket number [tapes may be maintained chronological by court date]
- C. **Description:** verbatim record of court proceedings (e.g., tapes, court reporter notes, transcripts, etc.)
- D. **Retention:**

- (1) **Appeal:** until transferred to district court
- (2) **No appeal or remanded from district court:** 30 days after judgment date
- E. **Note bene:** Tapes may be destroyed when the transcript thereof have been accepted by the court. [4-23-81, 1-10-97, 5-19-97; 1.17.218.132 NMAC - Rn, 1 NMAC 3.2.92.218.03.302, 1-6-02; A, 7-3-04]

1.17.218.133 CIVIL EXHIBITS:

- A. **Program:** civil matters
 - B. **Maintenance:** numerical by docket number
 - C. **Description:** materials introduced as evidence in court case. Materials include documents (e.g., depositions, interrogatives, requests for admission, reports, etc.), personal possessions, etc
 - D. **Retention:**
 - (1) **Appeal:** until transferred to district court
 - (2) **No appeal or remanded from district court:** 30 days after judgment date
- [5-11-94, 1-10-97, 5-19-97; 1.17.218.133 NMAC - Rn, 1 NMAC 3.2.92.218.03.303, 1-6-02; A, 7-3-04]

1.17.218.134 [RESERVED]

[6-5-76, 1-10-97, 5-19-97; 1.17.218.134 NMAC - Rn, 1 NMAC 3.2.92.218.03.304, 1-6-02; Repealed, 7-3-04]
[Repealed section (records series name): *civil docket card index*]

1.17.218.135 -1.17.218.140 [RESERVED]

1.17.218.141 CHILDREN'S DETENTION HEARING FILE:

- A. **Program:** children's detention matters
 - B. **Maintenance:** numerical by docket number
 - C. **Description:** record of children's detention proceedings before the magistrate court. Record of detention matters initiated by juvenile parole officers involving: assault, battery and escape from a juvenile detention facility; malicious mischief; violation of probation conditions; etc. File may contain complaints, petitions, orders, motions, notices, *entry of appearance*, social services reports, *subpoenas*, settings, tape control sheets, judgments, *notice of appeal*, *order for record proper*, disposition on appeal, correspondence, memoranda, etc.
 - D. **Retention:** one year after case dismissed, entry of judgment or final order, provided audit report has been released, and provided all conditions of judgment have been met
 - E. **Confidentiality:** confidential per 32A-2-32, NMSA 1978. Traffic Code and Motor Vehicle Code violations are exempted from confidentiality requirements per 32-1-48C, NMSA 1978.
- [1.17.218.141 NMAC - N, 7-3-04]

1.17.218.142 CHILDREN'S DETENTION PROCEEDINGS RECORDING:

- A. **Program:** children's detention matters
 - B. **Maintenance:** numerical by docket number [tapes may be maintained chronological by court date]
 - C. **Description:** verbatim record of court proceedings (e.g., tapes, court reporter notes, transcripts, etc.)
 - D. **Retention:**
 - (1) **Competent minor:** four years after final judgment, or one year after age of majority, whichever is longer
 - (2) **Incompetent minor:** four years after declaration of competency but not less than one year after age of majority
 - (3) **Record where original has been transmitted to district court:** 60 days after date of transmittal [retention on copies of record retained at magistrate court]
 - E. **Confidentiality:** confidential per 32A-2-32, NMSA 1978. Traffic code and motor vehicle code violations are exempted from confidentiality requirements per 32-1-48C, NMSA 1978.
- [1.17.218.142 NMAC - N, 7-3-04]

1.17.218.143 CHILDREN'S DETENTION HEARING EXHIBITS:

- A. **Program:** children's detention matters
- B. **Maintenance:** numerical by docket number

C. Description: materials introduced as evidence in court hearing. Materials include documents (e.g., depositions, interrogatives, requests for admission, reports, etc.), personal possessions, weapons, etc.

D. Retention:

(1) **Competent minor:** one year after final judgment, or one year after age of majority, whichever is longer

(2) **Incompetent minor:** one year after declaration of competency

E. Confidentiality: confidential per 32A-2-32, NMSA 1978. Traffic code and motor vehicle code violations are exempted from confidentiality requirements per 32-1-48C, NMSA 1978.

F. Note bene: Unless otherwise ordered by the court, parties or their attorneys shall be given written notice by the clerk that the exhibits in the custody of the clerk will be disposed of 60 days from the date of notice unless retrieved by them. Clerks may release exhibits to the introducing parties or their attorneys as soon as the retention has been met, whether or not disposition notice has been issued. An exhibit remains the property of the party tendering the exhibit. Failure of a party to repossess an exhibit within sixty days from notice of the court terminates the legal interest of the party in that exhibit.

[1.17.218.143 NMAC - N, 7-3-04]

HISTORY OF 1.17.218 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center under:

SRC Rule 76-3, Records Retention and Disposal Schedule for Magistrate Court, 5-5-76.

SRC Rule No. 81-1, Records Retention and Disposition Schedule for Magistrate Court, 3-23-81.

SRC Rule No. 93-08, Records Retention and Disposition Schedule for New Mexico Magistrate Court, 4-11-94.

History of Repealed Material: [RESERVED]