

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 17 JUDICIAL RECORDS RETENTION AND DISPOSITION SCHEDULES (JRRDS)
PART 230 JRRDS, NEW MEXICO DISTRICT COURTS

1.17.230.1 ISSUING AGENCY: New Mexico Commission of Public Records - State Records Center and Archives in conjunction with the New Mexico Supreme Court.
[1.17.230.1 NMAC - Rp 1.17.230.1 NMAC, 2/18/2003]

1.17.230.2 SCOPE: New Mexico district courts.
[1.17.230.2 NMAC - Rp 1.17.230.2 NMAC, 2/18/2003]

1.17.230.3 STATUTORY AUTHORITY: Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.
[1.17.230.3 NMAC - Rp 1.17.230.3 NMAC, 2/18/2003; A, 4/30/2012]

1.17.230.4 DURATION: permanent
[1.17.230.4 NMAC - Rp 1.17.230.4 NMAC, 2/18/2003]

1.17.230.5 EFFECTIVE DATE: February 18, 2003, unless a later date is cited at the end of a section.
[1.17.230.5 NMAC - Rp 1.17.230.5 NMAC, 2/18/2003]

1.17.230.6 OBJECTIVE: To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.
[1.17.230.6 NMAC - Rp 1.17.230.6 NMAC, 2/18/2003; A, 4/30/2012]

1.17.230.7 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. "Archives"** means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. The term also refers to the organizational unit of the SRCA storing these records.
- D. "Audit"** means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.
- E. "Commission"** means the state commission of public records (Section 14-3-2 NMSA 1978).
- F. "Disposition"** means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).
- G. "Drug court"** means alternative sentencing program for adult and juvenile offenders who have drug-related offenses.
- H. "Microphotography"** means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.
- I. "Non-record"** means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.
- J. "Nota bene"** means information important for the administration of the retention period.

K. "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.

L. "Public record" 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).

M. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee.

N. "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

O. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

P. "Records retention and disposition schedule" means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

Q. "Retention" 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.
[1.17.230.7 NMAC - Rp 1.17.230.7 NMAC, 2/18/2003; A, 9/27/2010; A, 4/30/2012]

1.17.230.8 ABBREVIATIONS AND ACRONYMS:

A. "CFR" stands for code of federal regulations.

B. "EDRRDS" stands for education records retention and disposition schedules.

C. "ERRDS" stands for executive records retention and disposition schedules.

D. "DUP" stands for driving under the influence.

E. "DV" stands for domestic violence.

F. "GRRDS" stands for general records retention and disposition schedules.

G. "JRRDS" stands for judicial records retention and disposition schedules.

H. "LRRDS" stands for legislative records retention and disposition schedules.

I. "LGRRDS" stands for local government records retention and disposition schedules.

J. "SRCA" stands for state records center and archives.

K. "USC" stands for United States code.

[1.17.230.8 NMAC - Rp, 1.17.230.9 NMAC, 2/18/2003; A, 9/27/2010; 1.17.230.8 NMAC - N, 04/30/2012]

1.17.230.9 INSTRUCTIONS:

A. Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below.

(1) **Program** - describes the function of the records

(2) **Maintenance system** - describes how an agency files (organizes) records

(3) **Description** - describes the purpose and content of a record

(4) **Retention** - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

B. For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.2 NMAC.

C. For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

D. For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

E. For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

F. 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.

G. The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included 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.

H. Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

I. Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

J. Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

K. Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

L. Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.
[1.17.230.9 NMAC - N, 2/18/2003; 1.17.230.9 - N, 4/30/2012]

1.17.230.10 - 1.17.230.101 [RESERVED]

1.17.230.102 COURT CALENDAR:

- A. Program:** output of *automated court* system
 - B. Maintenance system:** chronological by setting date
 - C. Description:** record by day of settings in the court. Record may show case names, docket numbers, judges, courtroom, date and time, etc.
 - D. Retention:** 30 days after scheduled date [no retention on printed copy]
- [1.17.230.102 NMAC - Rp 1.17.230.102 NMAC, 2/18/2003]

1.17.230.103 OATHS OF OFFICE:

- A. Program:** administration
 - B. Maintenance system:** [no specific maintenance system required]
 - C. Description:** oaths of office administered by district court judges to state and local officials. Oaths may show name of judge, name of clerk, court, date, oath or affirmation, signatures, seal, etc.
 - D. Retention:** permanent, transfer to state archives after 10 years.
- [1.17.230.103 NMAC - Rp 1.17.230.103 NMAC, 2/18/2003]

1.17.230.104 ANNUAL COURT REPORT:

- A. Program:** administration
 - B. Maintenance system:** chronological by fiscal year
 - C. Description:** annual statistical and narrative report of the district court. Statistical court activity may show date, status of pending court cases, number of cases closed by category, number of cases filed by category, etc. Narrative portion of report details program accountability and status.
 - D. Retention:** permanent, transfer to state archives after 10 years.
- [1.17.230.104 NMAC - Rp 1.17.230.104 NMAC, 2/18/2003]

1.17.230.105 TRUST ACCOUNT DATABASE:

- A. **Program:** administration
- B. **Maintenance system:** numerical by account
- C. **Description:** Database tracks and monitors monies deposited, monies disbursed, balances, corresponding docket number, etc.
- D. **Retention:** six years after close of fiscal year in which account closed
[1.17.230.105 NMAC - Rp 1.17.230.105 NMAC, 2/18/2003]

1.17.230.106 WILL FILE:

- A. **Program:** administration
- B. **Maintenance system:** alphabetical by testator.
- C. **Description:** Original will by living testator. Record concerning the disposition of property by individual testators. In addition to the will, the file may contain a cover letter.
- D. **Retention:** until delivered back to testator or authorized designee, or after death of testator upon delivery to appropriate court or authorized designee.
- E. **Confidentiality:** Section 45-2-901 NMSA 1978
[1.17.230.106 NMAC - Rp 1.17.230.106 NMAC, 2/18/2003]

1.17.230.107 JUROR DOCUMENT FILE:

- A. **Program:** administration
- B. **Maintenance system:** chronological by date juror pool created
- C. **Description:** record concerning jury composition. File may contain court orders, statistical reports, juror questionnaire, excusals, list of jurors in pool, correspondence, memoranda, etc.
- D. **Retention:** 60 days after date of last possible appeal but no less than three years after date *juror list* created
- E. **Confidentiality:** portions of this file may be confidential (e.g., juror address, juror telephone number, juror questionnaire).
[1.17.230.107 NMAC - Rp 1.17.230.107 NMAC, 2/18/2003]

1.17.230.108 JUROR SUMMONS FILE:

- A. **Program:** administration
- B. **Maintenance system:** chronological by date of summons
- C. **Description:** record concerning the call for jurors. File contains list of summoned potential jurors. File may also contain returns from summons (returned undelivered summons). [This is a mail-out item. Retention is on court copy.]
- D. **Retention:** three months after date created or until next juror pool created, whichever is longer
[1.17.230.108 NMAC - Rp 1.17.230.108 NMAC, 2/18/2003]

1.17.230.109 REGISTER OF COMPUTER SOFTWARE:

- A. **Program:** administration
- B. **Maintenance system:** chronological by acquisition date
- C. **Description:** register of all software that is placed or is used on the judicial equipment under the control of the court. Register shall show the name of the software, the copyright owner (where applicable), the number of authorized installations or users or whether the software is site licensed or licensed for the entire judiciary, the date acquired, and the location of the backup or archive copy of the software.
- D. **Retention:** until superseded by new register (listing)
- E. **Nota bene:** register required by supreme court order number 8000, dated December 14, 1994.
[1.17.230.109 NMAC - Rp 1.17.230.109 NMAC, 2/18/2003]

1.17.230.110 - 1.17.230.200 [RESERVED]

1.17.230.201 CRIMINAL CASE FILE:

- A. **Program:** criminal matters
- B. **Maintenance system:** numerical by docket number

C. Description: record of criminal proceedings before the court. File may contain *criminal docket sheets*, criminal *complaints* (information), *grand jury indictments*, bail orders, bonding documents, pre-trial correspondence, pre-trial motions, pre-trial orders, transportation orders, *entries of appearance*, *return of service*, *bench warrants*, tape control sheets (tape logs), indigence determinations, judgments and sentencing, post-trial motions and orders, *notice of appeal*, *orders for record proper*, disposition on appeal, orders of release from probation, *certificates as to the state of the record*, etc.

D. Retention: permanent

E. Confidentiality: *pre-trial release intake sheet*, probation case folders or files, pre-sentence reports, pre-parole reports and supervision histories are confidential documents (Section 31-21-6 NMSA 1978). Treatment psychological evaluations are confidential (Section 14-6-1 NMSA 1978). All these confidential documents shall be returned to their entity of origin 60 days after sentencing unless sentencing period is extended by NMRA Rule 5-01 filing. If found in file at the time of microfilming, destroy

F. Nota bene:

- (1) no *criminal case file* shall be microphotographed without *criminal docket sheet*.
- (2) forfeitures are dealt with as civil cases.
- (3) issuance of a search warrant or a release order requires the creation of case file if none exists.

[1.17.230.201 NMAC - Rp 1.17.230.121 NMAC, 2/18/2003]

1.17.230.202 CRIMINAL PROCEEDINGS RECORDING:

A. Program: criminal matters

B. Maintenance system: 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) **capital cases.** upon defendant's release or death
- (2) **non-capital cases.**

(a) Original transmitted to appellate court. Retention on copies of record retained at District Court is 60 days after date of transmittal

(b) Original retained at district court. 20 years after final resolution, release of defendant from probation or from parole, or expiration of sentence, whichever is less, but no less than four years after last entry in *criminal case file*.

E. Nota bene:

(1) criminal tapes and transcripts received from lower courts shall be retained by the district court in accordance with these retention periods.

(2) the list of exhibits portion of the record of proceedings shall be filed in the criminal case file.

(3) records on ephemeral media should be revitalized or revived every three years.

[1.17.230.202 NMAC - Rp 1.17.230.122 NMAC, 2/18/2003]

1.17.230.203 CRIMINAL EXHIBITS:

A. Program: criminal matters

B. Maintenance system: 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, human remains, etc.

D. Retention:

(1) not appealed. 90 days after entry of the final order disposing of the case but no less than 60 days after written disposition notice to the introducing party or their attorney. NMRA 5-117 (D) (1)

(2) appealed. 30 days after the filing of the appellate mandate unless a new trial is ordered but no less than 60 days after written disposition notice to the introducing party or their attorney. NMRA 5-117 (D) (2)

E. Confidentiality: individual exhibits may be confidential by protective court order.

F. Nota bene:

(1) 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 60 days from notice of the court terminates the legal interest of the party in that exhibit.

(2) Human remains from the medical examiner's office which are introduced as exhibits remain in the custody of the medical examiner's office.

[1.17.230.203 NMAC - Rp 1.17.230.123 NMAC, 2/18/2003]

1.17.230.204 CRIMINAL DOCKET SHEET:

- A. Program:** criminal matters
- B. Maintenance system:** chronological by date of filing
- C. Description:** record of documents and events in a criminal case. Record may show clerk, judge, court type, date filed, time filed, number of pages, violation date, arrest number, bond amount, bond type, bond posted by, case number, defendant name, date of birth, social security number, arresting officer, arresting agency, attorney, waiver, trial type, citation, statute/ordinance, charge, plea, judgment, sentence, fine, court cost, lab fee, correctional fee, etc.
- D. Retention:** until filed in *criminal case file*
- E. Confidentiality:** Social security numbers shall not be released to the public (supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7).

[1.17.230.204 NMAC - Rp 1.17.230.124 NMAC, 2/18/2003]

1.17.230.205 INDEX OF CRIMINAL DEFENDANTS:

- A. Program:** criminal matters
- B. Maintenance system:** alphabetical by defendant name
- C. Description:** yearly alphabetical listing by defendant name cross-referencing to docket number. Listing may show defendant name, docket number, etc.
- D. Retention:** permanent
- E. Nota bene:**
 - (1) Courts having automated systems that provide access by defendant name are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.
 - (2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.
 - (3) Courts may maintain a separate index for forfeiture cases.

[1.17.230.205 NMAC - Rp 1.17.230.125 NMAC, 2/18/2003]

1.17.230.206 GRAND JURY TRANSCRIPTS AND TAPES:

- A. Program:** criminal matters
- B. Maintenance system:** chronological by grand jury date
- C. Description:** narrative record of proceeding in front of the grand jury.
- D. Retention:**
 - (1) Indictment returned.
 - (a) capital cases, upon defendant's release or death.
 - (b) non-capital case, 20 years after final resolution, release of defendant from probation or from parole, or expiration of sentence, whichever is less. But no less than four years after last entry in *criminal case file*.
 - (2) No indictment returned (no bill). Mandatory destruction six months after case disposed, unless ordered by court (Section 31-6-8 NMSA 1978). Notes or transcriptions shall be destroyed unless ordered by the district court judge to be preserved. (Section 31-6-8 NMSA 1978)

E. Confidentiality: Section 31-6-4 NMSA 1978

F. Nota bene: death may be presumed 90 years after date of last entry

[1.17.230.206 NMAC - Rp 1.17.230.126 NMAC, 2/18/2003]

1.17.230.207 GRAND JURY REPORTS:

- A. Program:** criminal matters
- B. Maintenance system:** chronological by date of report
- C. Description:** summary report of grand jury resolution. Record may show defendant name, crime charged, offense date, date of report, grand jury findings, etc.
- D. Retention:**

- (1) Indictment returned, until filed in *criminal case file*
- (2) No indictment returned (no bill), six months after date of report

E. Confidentiality: “no bills shall be sealed,” Section 31-6-5 NMSA 1978
[1.17.230.207 NMAC - Rp 1.17.230.127 NMAC, 2/18/2003]

1.17.230.208 GRAND JURY CASE FILE:

A. Program: criminal matters

B. Maintenance system: numerical by case number

C. Description: file of documents created during a grand jury investigation. File may contain subpoenas, tape control logs, affidavits, witness lists, etc.

D. Retention:

(1) Indictment returned, until filed in *criminal case file*

(2) No indictment returned (no bill), six months after grand jury discharged

E. Confidentiality: “no bills shall be sealed,” Section 31-6-5 NMSA 1978.
[1.17.230.208 NMAC - Rp 1.17.230.128 NMAC, 2/18/2003]

1.17.230.209 SENTENCE MODIFICATION REQUESTS (NMRA RULE 5-801):

A. Program: criminal matters

B. Maintenance system: chronological by date received

C. Description: request for modification of sentence. Request may show defendant name, docket number, date received, reason for modification of sentence, etc.

D. Retention: until docketed and filed in *criminal case file*

E. Nota bene: when received, sentence modification requests shall be docketed and become part of the case file.

[1.17.230.209 NMAC - Rp 1.17.230.129 NMAC, 2/18/2003]

1.17.230.210 HABEAS CORPUS REQUESTS (NMRA RULE 5-802):

A. Program: criminal matters

B. Maintenance system: chronological by date received

C. Description: request for the demonstration of the authority by which the prisoner is held. Request may show defendant name, docket number, date received, reason for release, etc.

D. Retention: until docketed and filed in case file

E. Nota bene: Requests alleging violation of civil rights are filed as new civil cases. When received, habeas corpus requests shall be docketed and become part of the *criminal case file*.

[1.17.230.210 NMAC - Rp 1.17.230.130 NMAC, 2/18/2003]

1.17.230.211 PETIT JURY LISTS (CRIMINAL):

A. Program: criminal matters

B. Maintenance system: chronological by date produced

C. Description: list of names of certified jurors for a particular case.

D. Retention: until filed in *criminal case file*

E. Confidentiality: Portions of this file may be confidential (e.g., juror address, juror telephone number, juror questionnaire) per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section a note Section 7.

[1.17.230.211 NMAC - Rp 1.17.230.131 NMAC, 2/18/2003]

1.17.230.212 JUDGES MEMORANDUM OF SELECTION OF PETIT JURY FORM:

A. Program: criminal matters

B. Maintenance system: chronological by date generated

C. Description: record concerning the selection of individual jurors. Record may show names of enrolled jurors, names of non-selected jurors, names of exempted jurors, judge, date of selection, court, reasons for exclusions, etc.

D. Retention: until filed in *criminal case file*

E. Confidentiality: Portions of this file may be confidential (e.g., juror address, juror telephone number, juror questionnaire) per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.

[1.17.230.212 NMAC - Rp 1.17.230.132 NMAC, 2/18/2003]

1.17.230.213 PRETRIAL SERVICES FILES:

A. Program: criminal matters
B. Maintenance system: chronological by calendar year, then alphabetical by defendant surname
C. Description: record of criminal pretrial services and recommendations to the court for sentencing and conditions of release. File may contain background investigation records, pretrial services supervision records, judicial supervision program records, mental health court records, drug court records, homeless court records, competency court records, jail diversion records, photograph, national criminal information check report, treatment records, psychological evaluations, etc.

D. Retention:

- (1) **Dismissed cases:** upon dismissal of case
- (2) **All other cases:** three calendar years from date of sentencing

E. Confidentiality: Portions of record may be confidential per Section 31-21-6 NMSA 1978 (i.e., social records, pre-sentencing reports, pre-parole reports and supervision histories, etc.), Sections 31-25-3 and 31-25-4 NMSA 1978 (i.e., safe house, abuse shelter, other shelter facility, etc.), Section 14-6-1 (i.e., all health information), 45 CFR Subpart E of Part 164, (i.e., protected health identifiers), 32A-1-17 NMSA 1978 (i.e., children's files, records and transcripts, etc.), Section 32A-2-32 NMSA 1978 (i.e., children's social records, diagnostic evaluations, medical records, supervision histories, etc.), 32A-4-33 NMSA 1978 (i.e., child neglect or abuse records), 42 CFR 2 (i.e., patient records, diagnosis, treatment, referral, etc.), etc.

[1.17.230.213 NMAC - N, 5/14/2007]

1.17.230.214 - 1.17.230.250 [RESERVED]

1.17.230.251 JUVENILE DRUG COURT FILE:

A. Program: juvenile drug court
B. Maintenance system: numerical by case number
C. Description: record documents the chronological treatment history and progress of individual juveniles enrolled in the judicial district drug court program. File may contain; referral; intake information; chronological history if involved with CYFD; drug screening results; current probation agreement, mental health evaluations, physiological screening; medication form; photo id of individual enrolled in program; treatment progress, etc.

D. Retention: five years from date juvenile reaches the age of majority

E. Confidentiality: This record is confidential pursuant, but not limited to Section 32A-2-32 NMSA 1978, (i.e., diagnostic evaluations, psychiatric reports, medical reports), Section 5 USC, Section 552a (i.e., social security number) and Section 59A-46-27 NMSA 1978, confidentiality of medical information.

[1.17.230.251 NMAC - N, 09/27/2010]

1.17.230.252 PROBLEM SOLVING COURT FILES:

A. Program: civil and criminal matters
B. Maintenance system: numerical by case number
C. Description: record of civil and criminal problem solving court proceedings and recommendations to the court for sentencing and conditions of release. Portions of this record are input to the *drug court database*, 1.17.230.252 NMAC. File may include referral; intake information; chronological history if involved with CYFD; background investigation records; judicial supervision program records; current probation agreement, jail diversion records, national criminal information check report, drug screening results, mental health evaluations, psychological screening; medication form; photo id of individual enrolled in program; treatment progress, etc.

D. Retention:

- (1) **Dismissed cases:** upon dismissal of case or one year after the age of majority for juvenile
- (2) **Mental health court records:**
 - (a) **Adult cases:** 10 years after the close of the calendar year in which case closed
 - (b) **Juvenile cases:** one year after the age of majority
- (3) **All other cases:**

(a) **Adult cases:** six federal fiscal years from date of discharge, termination or graduation from program

(b) **Juvenile cases:** five years from date juvenile reaches the age of majority

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number) and Section 59A-46-27 NMSA 1978, confidentiality of medical information.

[1.17.230.252 NMAC - N, 4/30/2012]

1.17.230.253 DRUG COURT DATABASE:

A. Program: civil and criminal matters

B. Maintenance system: numerical by primary key

C. Description: database maintains chronological treatment history and progress of individuals enrolled in the judicial district drug court program. Data may include criminal history, substance abuse history, counseling history, drug testing results, community service reports, assessment results, etc.

D. Retention:

(1) **Dismissed case data:** upon dismissal of case or one year after the age of majority for juvenile

(2) **Mental health court records data:**

(a) **Adult case data:** 10 years after the close of the calendar year in which case closed

(b) **Juvenile case data:** one year after the age of majority

(3) **All other case data:**

(a) **Adult case data:** six federal fiscal years from date of discharge, termination or graduation from program

(b) **Juvenile case data:** five years from date juvenile reaches the age of majority

E. Input: All input for the drug court database are submitted from the *problem solving court files*
1.17.230.252 NMAC.

F. Output: Because the drug court database is a data-based system, regularly scheduled and ad hoc reports may be generated upon request or demand. When produced, these reports are forwarded to the requesting entity.

G. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number).

[1.17.230.253 NMAC - N, 4/30/2012]

1.17.230.254 - 1.17.230.300 [RESERVED]

1.17.230.301 CIVIL CASE FILE:

A. Program: civil matters

B. Maintenance system: numerical by docket number

C. Description: record of civil proceedings before the court. File may contain *complaint, petition, answer, cross-claims, counter-claims, motions, pre-trial orders, notices, entry of appearance, settings, tape control sheets, orders, judgments, notice of appeal, order for record proper, dispositions on appeal, satisfaction judgments, correspondence, memoranda, etc.*

D. Retention: permanent

E. Confidentiality: may contain materials covered by protective order or sealed materials

F. Nota bene:

(1) No *civil case file* shall be microphotographed without *civil docket sheet*.

(2) For administrative cases refer to 1.17.230.901 NMAC.

(3) Issuance of a civil search warrant requires the creation of case file if none exists.

[1.17.230.301 NMAC - Rp 1.17.230.141 NMAC, 2/18/2003]

1.17.230.302 CIVIL PROCEEDINGS RECORDING:

A. Program: civil matters

B. Maintenance system: 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) *Notice of appeal* filed.

(a) original record transmitted to appellate court (retention on copies of record retained at district court), 60 days after date of transmittal

(b) all other records (including original record not transmitted to appellate court), four years after date of *notice of appeal*

(2) No *notice of appeal* filed. After judgment, then four years after date of last entry in *civil case file* [1.17.230.302 NMAC - Rp 1.17.230.142 NMAC, 2/18/2003]

1.17.230.303 CIVIL EXHIBITS:

A. Program: civil matters

B. Maintenance system: 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) *Notice of appeal* filed

(a) Transcript of record ordered, one year after final disposition

(b) No transcript of record ordered, one year after date of *notice of appeal*

(2) No *notice of appeal* filed. After judgment, then 60 days after date of last entry in *civil case file*

E. Nota 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.

[1.17.230.303 NMAC - Rp 1.17.230.143 NMAC, 2/18/2003]

1.17.230.304 CIVIL DOCKET SHEET:

A. Program: civil matters

B. Maintenance system: chronological by date of filing

C. Description: record of documents and events in a civil case. Record may show clerk, judge, court type, date filed, time filed, number of pages, plaintiff name, case number, defendant name, attorney, waiver, trial type, judgment, sentence, court cost, etc.

D. Retention: until filed in *civil case file*

E. Confidentiality: Social security numbers shall not be released to the public (supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7).

[1.17.230.304 NMAC - Rp 1.17.230.144 NMAC, 2/18/2003]

1.17.230.305 INDEX OF CIVIL PARTIES:

A. Program: civil matters

B. Maintenance system: alphabetical by party name

C. Description: yearly alphabetical listing by party name cross-referencing to docket number. Listing may show party names, docket number, etc.

D. Retention:

(1) Non-automated courts. permanent

(2) Automated courts.

(a) monthly listing (non-cumulative information copy), until superseded by new listing

(b) annual listing (cumulative information for the year copy), permanent

E. Nota bene: Courts may maintain a separate index for forfeiture cases.

[1.17.230.305 NMAC - Rp 1.17.230.145 NMAC, 2/18/2003]

1.17.230.306 JUDGES MEMORANDUM OF SELECTION OF TRIAL JURY:

A. Program: civil matters

B. Maintenance system: numerical by docket number

C. Description: record concerning the selection of individual jurors. Record may show names of enrolled jurors, names of non-selected jurors, names of exempted jurors, judge, date of selection, court, etc.

D. Retention: until filed in *civil case file*

E. Confidentiality: Portions of this file may be confidential (e.g., juror address, juror telephone number, juror questionnaire) per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.
[1.17.230.306 NMAC - Rp 1.17.230.146 NMAC, 2/18/2003]

1.17.230.307 - 1.17.230.400 [RESERVED]

1.17.230.401 CHILDREN'S COURT CASE FILE:

- A. Program:** children's court matters
- B. Maintenance system:** numerical by docket number
- C. Description:** record of children's court proceedings before the court. 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:** permanent
- E. Confidentiality:** confidential per Section 32A-2-32 NMSA 1978. Traffic code and motor vehicle code violations are exempted from confidentiality requirements per Subsection C of Section 32-1-48 NMSA 1978.
- F. Nota bene:** No *children's court case file* shall be microphotographed without *children's docket sheet*.

[1.17.230.401 NMAC - Rp 1.17.230.151 NMAC, 2/18/2003]

1.17.230.402 CHILDREN'S COURT PROCEEDINGS RECORDING:

- A. Program:** children's court matters
- B. Maintenance system:** 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 appellate court, 60 days after date of transmittal [retention on copies of record retained at district court]
- E. Confidentiality:** confidential per Section 32A-2-32 NMSA 1978. Traffic code and motor vehicle code violations are exempted from confidentiality requirements per Subsection C of Section 32-1-48 NMSA 1978.

[1.17.230.402 NMAC - Rp 1.17.230.152 NMAC, 2/18/2003]

1.17.230.403 CHILDREN'S COURT EXHIBITS:

- A. Program:** children's court matters
- B. Maintenance system:** 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) 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 Section 32A-2-32 NMSA 1978. Traffic code and motor vehicle code violations are exempted from confidentiality requirements per Subsection C of Section 32-1-48 NMSA 1978.
- F. Nota 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.

[1.17.230.403 NMAC - Rp 1.17.230.153 NMAC, 2/18/2003]

1.17.230.404 CHILDREN'S COURT DOCKET SHEET:

A. Program: children's court matters
B. Maintenance system: court preference
C. Description: record of documents and events in a children's court case. Record may show clerk, judge, court type, date filed, time filed, number of pages, violation date, arrest number, bond amount, bond type, bond posted by, case number, defendant name, date of birth, social security number, arresting officer, arresting agency, attorney waiver, trial type, citation, statute/ordinance, charge, plea, judgment, sentence, fine, court cost, lab fee, correctional fee, etc.).

D. Retention: until filed in *children's court case file*

E. Confidentiality: Section 32A-2-32 NMSA 1978. Traffic code and motor vehicle code violations are exempted from confidentiality requirements per Subsection C of Section 32-1-48 NMSA 1978. Social Security numbers shall not be released per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.

[1.17.230.404 NMAC - Rp 1.17.230.154 NMAC, 2/18/2003]

1.17.230.405 INDEX OF CHILDREN'S COURT DEFENDANTS:

A. Program: children's court matters
B. Maintenance system: alphabetical by name of minor
C. Description: yearly alphabetical listing by name of minor cross-referencing to docket number. Listing may show name of minor, docket number, etc.).

D. Retention: permanent

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

F. Nota bene:

(1) Courts having automated systems that provide access by party name, are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.

(2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.

[1.17.230.405 NMAC - Rp 1.17.230.155 NMAC, 2/18/2003]

1.17.230.406 - 1.17.230.500 [RESERVED]

1.17.230.501 DOMESTIC RELATIONS CASE FILE:

A. Program: domestic relations matters
B. Maintenance system: numerical by docket number
C. Description: record of domestic relations proceedings before the court. File may contain *petition, answer, cross-claims, counter-claims, motions, pre-trial orders, notices, entry of appearance, settings, tape control sheets, orders, judgments, notice of appeal, order for record proper, dispositions on appeal, satisfaction judgments, correspondence, memoranda, etc.*

D. Retention: permanent

E. Confidentiality: Those documents that fall under Sections 14-6-1 and 32A-2-32 NMSA 1978 are confidential. May contain materials covered by protective order or may contain sealed materials

F. Nota bene: No *domestic relations case file* shall be microphotographed without *domestic relations docket sheet*.

[1.17.230.501 NMAC - Rp 1.17.230.161 NMAC, 2/18/2003]

1.17.230.502 DOMESTIC RELATIONS PROCEEDINGS RECORDING:

A. Program: domestic relations matters
B. Maintenance system: 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) Children involved, one years after age of majority of all children involved, but not less than four years after date of last entry

(2) No children involved, after judgment, (continued) then four years after date of last entry in *domestic relations case file*

(3) Record where original has been transmitted to appellate court [retention on copies of record retained at district court], 60 days after date of transmittal

E. Confidentiality: Those documents that fall under Sections 14-6-1 and 32A-2-32 NMSA 1978 are confidential.

[1.17.230.502 NMAC - Rp 1.17.230.162 NMAC, 2/18/2003]

1.17.230.503 DOMESTIC RELATIONS EXHIBITS:

A. Program: domestic relations matters

B. Maintenance system: 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: one year after date closed

E. Confidentiality: Those documents that fall under Sections 14-6-1 and 32A-2-32 NMSA 1978 are confidential.

F. Nota 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.

[1.17.230.503 NMAC - Rp 1.17.230.163 NMAC, 2/18/2003]

1.17.230.504 DOMESTIC RELATIONS DOCKET SHEET:

A. Program: domestic relations matters

B. Maintenance system: chronological by date of filing

C. Description: record of documents and events in a domestic relations case. Record may show clerk, judge, court type, date filed, time filed, number of pages, attorney waiver, judgment, etc.

D. Retention: until filed in *domestic relations case file*

E. Confidentiality: Social security numbers shall not be released to the public per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.

[1.17.230.504 NMAC - Rp 1.17.230.164 NMAC, 2/18/2003]

1.17.230.505 INDEX OF DOMESTIC RELATIONS PARTIES:

A. Program: domestic relations matters

B. Maintenance system: alphabetical by party name

C. Description: yearly alphabetical listing by party name cross-referencing to docket number.

Listing may show petitioner, respondent, docket number, etc.

D. Retention: permanent

E. Nota bene:

(1) Courts having automated systems that provide access by defendant name, are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.

(2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.

[1.17.230.505 NMAC - Rp 1.17.230.165 NMAC, 2/18/2003]

1.17.230.506 - 1.17.230.600 [RESERVED]

1.17.230.601 INCOMPETENCY, MENTAL HEALTH AND COMPETENCY CASE FILE:

A. Program: incompetency, mental health, and competency matters

B. Maintenance system: numerical by docket number

C. Description: record of incompetency, mental health, and competency proceedings before the court. File may contain *petition, answer, cross-claims, counter-claims, motions, pre-trial orders, notices, entry of appearance, settings, tape control sheets, orders, judgments, notice of appeal, order for record proper*, dispositions on appeal, psychological and social documentation, correspondence, memoranda, etc.

D. Retention: permanent
E. Confidentiality: Those documents covered by Sections 14-6-1, 31-21-6, 43-1-16G and 45-5-303I NMSA 1978 are confidential.

F. Nota bene: No *incompetency, mental health, and competency case file* shall be microfilmed without *incompetency, mental health, and competency docket sheet*.
[1.17.230.601 NMAC - Rp 1.17.230.171 NMAC, 2/18/2003]

1.17.230.602 INCOMPETENCY, MENTAL HEALTH, AND COMPETENCY PROCEEDINGS

RECORDING:

- A. Program:** incompetency, mental health, and competency matters
B. Maintenance system: 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) Incompetency declared, four years after competency declared or death
(2) No incompetency declared (includes cases under Section 31-1-15 NMSA 1978 for appointment of treatment guardians), after judgment, then four years after date of last entry in *incompetency, mental health, or competency case file*
(3) Record where original has been transmitted to appellate court [retention on copies of record retained at district court], 60 days after date of transmittal.
E. Confidentiality: Only those documents covered by Sections 14-6-1, 31-21-6, 43-1-16G and 43-1-15 NMSA 1978 are confidential.
F. Nota bene: Death may be presumed 90 years after date of last entry.
[1.17.230.602 NMAC - Rp 1.17.230.172 NMAC, 2/18/2003]

1.17.230.603 INCOMPETENCY/MENTAL HEALTH AND COMPETENCY EXHIBITS:

- A. Program:** incompetency, mental health and competency matters
B. Maintenance system: court preference
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) Incompetency declared, one year after competency declared
(2) No incompetency declared (includes cases under Section 43-1-15 NMSA 1978 for appointment of treatment guardians), after judgment, then one year after date of last entry in *Incompetency, mental health and competency case file*
E. Confidentiality: Those documents covered by Sections 14-6-1, 31-21-6, 43-1-16G and 43-1-15 NMSA 1978 are confidential.
F. Nota 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.
[1.17.230.603 NMAC - Rp 1.17.230.173 NMAC, 2/18/2003]

1.17.230.604 INCOMPETENCY, MENTAL HEALTH AND COMPETENCY DOCKET SHEET:

- A. Program:** incompetency, mental health, and competency matters
B. Maintenance system: chronological by date of filing
C. Description: record of documents and events in an incompetency, mental health and competency case. Record may show clerk, judge, court type, date filed, time filed, number of pages, case number, respondent name, attorney, waiver, judgment, etc.).
D. Retention: Until filed in *incompetency, mental health and competency case file*
E. Confidentiality: Social security numbers shall not be released to the public per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.
[1.17.230.604 NMAC - Rp 1.17.230.174 NMAC, 2/18/2003]

1.17.230.605 INDEX OF INCOMPETENCY, MENTAL HEALTH AND COMPETENCY PARTIES:

- A. Program:** incompetency, mental health, and competency matters
- B. Maintenance system:** alphabetical by party name
- C. Description:** yearly alphabetical listing by defendant name cross-referencing to docket number.

Listing may show name of petitioner, name of alleged incapacitated person, name of guardian, docket number, etc.

D. Retention: permanent

E. Not a bene:

(1) Courts having automated systems that provide access by defendant name are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.

(2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.

[1.17.230.605 NMAC - Rp 1.17.230.175 NMAC, 2/18/2003]

1.17.230.606 - 1.17.230.700 [RESERVED]

1.17.230.701 ADOPTION CASE FILE:

- A. Program:** adoption matters
- B. Maintenance system:** numerical by docket number
- C. Description:** record of adoption proceedings before the court. File may contain *petition, answer, cross-claims, counter-claims, motions, pre-trial orders, notices, entry of appearance, settings, tape control sheets, orders, judgments, notice of appeal, order for record proper*, dispositions on appeal, correspondence, memoranda, etc.

D. Retention: permanent

E. Confidentiality: confidential per Sections 40-7-53, 32A-2-32 and 32-1-3 NMSA 1978

F. Not a bene: No *adoption case file* shall be microphotographed without *adoption docket sheet*.

[1.17.230.701 NMAC - Rp 1.17.230.181 NMAC, 2/18/2003]

1.17.230.702 ADOPTION PROCEEDINGS RECORDING:

- A. Program:** adoption matters
- B. Maintenance system:** 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) Children not subject to Indian Child Welfare Act, four years after date of final decree but not less than one year after date of last entry in the case file

(2) Children subject to Indian Child Welfare Act, one year after age of majority, but not less than four years after date of final decree

E. Confidentiality: confidential per Sections 40-7-53, 32A-2-32 and 32-1-3 NMSA 1978

[1.17.230.702 NMAC - Rp 1.17.230.182 NMAC, 2/18/2003]

1.17.230.703 ADOPTION EXHIBITS:

- A. Program:** adoption matters
- B. Maintenance system:** 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) Children not subject to Indian Child Welfare Act, one year after date of final decree

(2) Children subject to Indian Child Welfare Act, one year after age of majority

E. Confidentiality: confidential per Sections 40-7-53, 32A-2-32 and 32-1-3 NMSA 1978

F. Not a bene:

(1) 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.

(2) 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.

(3) An exhibit remains the property of the party tendering the exhibit.

(4) 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.

[1.17.230.703 NMAC - Rp 1.17.230.183 NMAC, 2/18/2003]

1.17.230.704 ADOPTION DOCKET SHEET:

A. Program: adoption matters

B. Maintenance system: chronological by date of filing

C. Description: record of documents and events in an adoption case. File may show clerk, judge, court type, date filed, time filed, number of pages, case number, parties names, date of birth, social security number, attorney, waiver, judgment, etc.

D. Retention: until filed in *adoption case file*

E. Confidentiality: confidential per Section 40-7-53 NMSA 1978. Social security numbers shall not be released to the public per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.

[1.17.230.704 NMAC - Rp 1.17.230.184 NMAC, 2/18/2003]

1.17.230.705 INDEX OF ADOPTION PARTIES:

A. Program: adoption matters

B. Maintenance system: alphabetical

C. Description: yearly alphabetical listing by defendant name cross-referencing to docket number. Listing may show names of adopters, name of adoptee, docket number, etc.

D. Retention: permanent

E. Confidentiality: confidential per Sections 40-7-53, 32A-2-32 and 32-1-3 NMSA 1978

F. Nota bene:

(1) Courts having automated systems that provide access by defendant name are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.

(2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.

[1.17.230.705 NMAC - Rp 1.17.230.185 NMAC, 2/18/2003]

1.17.230.706 - 1.17.230.800 [RESERVED]

1.17.230.801 PROBATE CASE FILE:

A. Program: probate matters

B. Maintenance system: numerical by docket number

C. Description: record of probate proceedings before the court. File may contain *petition, will, death certificate, notice to creditors*, bonding documents, *letters of administration*, claims, proposed distributions, settlements, orders of appointments, orders of distribution, correspondence, memoranda, etc. File includes probate court case files forwarded from county clerk's office or probate judge.

D. Retention: permanent

E. Confidentiality: may contain materials covered by protective order or sealed materials

F. Nota bene: No *probate case file* shall be microphotographed without *probate docket sheet*.

[1.17.230.801 NMAC - Rp 1.17.230.191 NMAC, 2/18/2003]

1.17.230.802 PROBATE PROCEEDINGS RECORDING:

A. Program: probate matters

B. Maintenance system: 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) *Notice of appeal* filed.

(a) original record transmitted to appellate court (retention on copies of record retained at district court), 60 days after date of transmittal

(b) all other records (including original records not transmitted to appellate court), four years after date of *notice of appeal*

(2) No *notice of appeal* filed. one year after date closed

E. **Confidentiality:** may contain materials sealed materials or materials covered by protective order. [1.17.230.802 NMAC - Rp 1.17.230.192 NMAC, 2/18/2003]

1.17.230.803 PROBATE EXHIBITS:

A. **Program:** probate matters

B. **Maintenance system:** numerical by date of filing

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

D. **Retention:** after judgment, then 60 days after date of final entry in *probate case file*

E. **Confidentiality:** may contain materials sealed materials or materials covered by protective order.

F. **Nota 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.

[1.17.230.803 NMAC - Rp 1.17.230.193 NMAC, 2/18/2003]

1.17.230.804 PROBATE DOCKET SHEET:

A. **Program:** probate matters

B. **Maintenance system:** chronological by date of filing

C. **Description:** record of documents and events in a probate case. Record may show clerk, judge, court type, date filed, time filed, number of pages, case number, decedent's name, social security number, date of death, attorney, waiver, judgment, court cost, etc.

D. **Retention:** until filed in *probate case file*

E. **Confidentiality:** Social security numbers shall not be released to the public per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.

[1.17.230.804 NMAC - Rp 1.17.230.194 NMAC, 2/18/2003]

1.17.230.805 INDEX OF PROBATE DECEDENTS:

A. **Program:** probate matters

B. **Maintenance system:** alphabetical by decedent's name

C. **Description:** yearly alphabetical listing by decedent's name cross-referencing to docket number. Listing may show name of decedent, docket number, etc.

D. **Retention:** permanent

E. **Nota bene:**

(1) Courts having automated systems that provide access by defendant name, are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.

(2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.

[1.17.230.805 NMAC - Rp 1.17.230.195 NMAC, 2/18/2003]

1.17.230.806 - 1.17.230.849 [RESERVED]

1.17.230.850 GUARDIANSHIP AND CONSERVATORSHIP CASE FILE:

A. **Program:** guardianship and conservatorship matters

B. **Maintenance system:** numerical by docket number

C. **Description:** record of guardianship and conservatorship matters before the court. File may contain *petition, motions, pre-trial orders, notices, entry of appearance, settings, tape control sheets, orders, judgments, notice of appeal, order for record proper, dispositions on appeal, psychological and social documentation, memoranda, etc.*

D. Retention: permanent
E. Confidentiality: Only those documents covered by Sections 14-6-1, 31-21-6 and 45-5-303I NMSA 1978 are confidential.

F. Nota bene:

(1) No *guardianship and conservatorship case file* shall be imaged without the *guardianship and conservatorship docket sheet*.

(2) If guardianship or conservatorship case is combined with an incompetency, mental health, and competency case, case file shall be treated as an *incompetency, mental health, and competency case file*.

[1.17.230.850 NMAC - N, 2/18/2003]

1.17.230.851 GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS RECORDING:

A. Program: guardianship and conservatorship matters

B. Maintenance system: 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) Non-minor, all records, except copies of record where originals go to appellate court. four years after the date of the *notice of appeal*, or with a final transmitted judgment, four years after date of last entry in case file [record not confidential]

(2) Competent minor, four years after final judgment, or one year after age of majority, whichever is longer [record confidential]

(3) Incompetent minor, four years after final judgment, but not less than one year after declaration of Competency and not less than one year after age of majority [record confidential]

(4) Copies of record retained by district court where originals transmitted to appellate court, 60 days after date of transmittal

E. Confidentiality: Section 14-6-1 NMSA 1978

[1.17.230.851 NMAC - N, 2/18/2003]

1.17.230.852 GUARDIANSHIP AND CONSERVATORSHIP EXHIBITS:

A. Program: guardianship and conservatorship matters

B. Maintenance system: 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) Non-minor, one year after *notice of appeal* filed or one year after last entry in case file, which ever is longer

(2) Competent minor, one year after final judgment, or one year after age of majority, whichever is longer [confidential]

(3) Incompetent minor, one year after declaration of competency or one year after age of majority, whichever is longer [confidential]

E. Confidentiality: Section 14-6-1 NMSA 1978

F. Nota 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.

[1.17.230.852 NMAC - N, 2/18/2003]

1.17.230.853 GUARDIANSHIP AND CONSERVATORSHIP DOCKET SHEET:

A. Program: guardianship and conservatorship matters

B. Maintenance system: chronological by date of filing

C. Description: record of documents and events in a guardianship and conservatorship case. Record may show clerk, judge, court type, date filed, time filed, number of pages, case number, name of ward, date of birth, social security number, name of conservator or guardian, attorney, waivers, judgment, notice of appeal.

- D. **Retention:** until filed in case file
- E. **Confidentiality:** Social security numbers shall not be released to the public per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7. [1.17.230.853 NMAC - N, 2/18/2003]

1.17.230.854 INDEX OF GUARDIANSHIP AND CONSERVATORSHIP CASES:

- A. **Program:** guardianship and conservatorship matters
 - B. **Maintenance system:** alphabetical by name of ward, guardian, and conservator
 - C. **Description:** yearly alphabetical listing by ward name cross-referencing to docket number. Listing may show name of ward and index of name of conservator or guardian, etc.
 - D. **Retention:** permanent
 - (1) Courts having automated systems that provide access by defendant name are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.
 - (2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.
 - E. **Nota bene:**
 - (1) Courts may maintain a separate index or combine with probate index.
 - (2) Courts having automated systems that provide access by defendant name are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.
 - (3) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.
- [1.17.230.854 NMAC - N, 2/18/2003]

1.17.230.855 - 1.17.230.900 [RESERVED]

1.17.230.901 ADMINISTRATIVE APPEAL CASE FILE:

- A. **Program:** administrative appeals matters
 - B. **Maintenance system:** numerical by docket number
 - C. **Description:** record of administrative appeal proceedings before the court. File may contain appellate pleadings, motions, orders, opinion or decision, mandate, etc.
 - D. **Retention:** permanent
 - E. **Nota bene:** No *administrative appeal case file* shall be microphotographed without *administrative docket sheet*.
- [1.17.230.901 NMAC - Rp 1.17.230.201 NMAC, 2/18/2003]

1.17.230.902 ADMINISTRATIVE APPEAL PROCEEDINGS RECORDING:

- A. **Program:** administrative appeals matters
 - B. **Maintenance system:** verbatim record of court proceedings (e.g., tapes, court reporter notes, transcripts, etc.)
 - C. **Description:** verbatim record of court proceedings (e.g., tapes, court reporter notes, transcripts, etc.)
 - D. **Retention:**
 - (1) *Notice of appeal* of decision from the district court
 - (a) original record transmitted to appellate court (retention on copies of record retained at district court), 60 days after date of transmittal
 - (b) all other records (including original records not transmitted), four years after date *notice of appeal* to appellate court
 - (2) No *notice of appeal* of decision from the district court, after judgment, then four years after date of last entry *administrative appeal case file*
 - E. **Nota bene:** After retention has expired, records received from administrative agencies shall be returned to originating agency.
- [1.17.230.902 NMAC - Rp 1.17.230.202 NMAC, 2/18/2003]

1.17.230.903 ADMINISTRATIVE APPEALS EXHIBITS:

- A. **Program:** administrative appeals matters
- B. **Maintenance system:** 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) *Notice of appeal* of decision from the district court
 - (a) transcript of record ordered, one year after final disposition
 - (b) no transcript of record ordered, one year after date of *notice of appeal*

(2) *No notice of appeal* of decision from the district court. After judgment, then 60 days after date of last entry in *administrative appeal case file*

E. Nota bene: After retention has expired, exhibits shall be returned to contributing entity.

[1.17.230.903 NMAC - Rp 1.17.230.203 NMAC, 2/18/2003]

1.17.230.904 ADMINISTRATIVE APPEALS DOCKET SHEET:

A. Program: administrative appeals matters

B. Maintenance system: chronological by date of filing

C. Description: record of documents and events in an administrative appeals case. Record may show clerk, judge, court type, date filed, time filed, number of pages, plaintiff name, case number, defendant name attorney, waiver, trial type, judgment, sentence, court cost, etc.

D. Retention: until filed in *administrative appeal case file*

[1.17.230.904 NMAC - Rp 1.17.230.204 NMAC, 2/18/2003]

1.17.230.905 INDEX OF ADMINISTRATIVE APPEALS CASES:

A. Program: administrative appeals matters

B. Maintenance system: alphabetical by party name

C. Description: yearly alphabetical listing by party name cross-referencing to docket number.

Listing may show party name, docket number, etc.

D. Retention: permanent

E. Nota bene:

(1) Courts having automated systems that provide access by defendant name are not required to produce annual paper indexes. However, a five-year paper index shall be produced and forwarded to state archives.

(2) Paper indexes produced prior to automation shall be microphotographed (imaged) with a copy forwarded to state archives.

[1.17.230.905 NMAC - Rp 1.17.230.205 NMAC, 2/18/2003]

1.17.230.906 - 1.17.230.950 [RESERVED]

1.17.230.951 COURT CLINIC FILE:

A. Program: court clinic

B. Maintenance system: numerical by docket number

C. Description: record concerning the investigation and recommendation of parties before the court that have been ordered to court clinic. File may contain court order, court clinic questionnaires, case notes, psychological tests, answer sheets and results, collateral data and reports, parenting plans, evaluations, recommendations, release of information documentation, information and summary sheet, correspondence, memoranda, etc. Records may show social security number and other confidential information

D. Retention:

(1) Files involving minors (not including competency to stand trial), one year after age of majority of all minors involved

(2) Files of competency to stand trial, 50 years after date of evaluation or 100 years after date of birth or upon receipt of death certificate whichever is less

E. Confidentiality: Files involving minors are confidential (Section 32A-2-32 NMSA 1978).

Traffic code and motor vehicle code violations are exempted from confidentiality requirements (Section 32-1-48C NMSA 1978). Adult files of competency to stand trial are confidential (Sections 14-6-1, 31-21-6, 43-1-16G, and 43-1-15 NMSA 1978). Social security number shall not be released per supreme court order 8000, dated April 5, 2001, and federal Privacy Act of 1974, 5 USC Section 552a note Section 7.

[1.17.230.951 NMAC - Rp 1.17.230.211 NMAC, 2/18/2003]

HISTORY OF 1.17.230 NMAC:

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

SRC Rule 75-19, Records Retention and Disposal Schedule for New Mexico District Courts, 9/15/75.

SRC Rule No. 79-13, Retention Schedule for Records of the District Courts, 11/30/79.

SRC Rule No. 91-03, Records Retention and Disposition Schedule for New Mexico District Courts, 12/14/91.

History of Repealed Material:

1.17.230 NMAC, JRRDS, New Mexico District Courts - Repealed, 2/18/2003.

REPEALED