



NEW MEXICO  
**PUBLIC DEFENDER DEPARTMENT**

Jacqueline Cooper  
Chief Public Defender

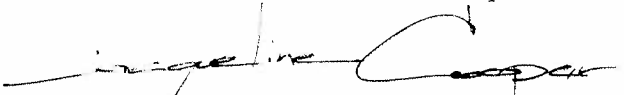
Bennett Baur  
Deputy Chief Public Defender

NMPD 300.004

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\*This policy and procedure replaces any previous policies and procedures pertaining to Reporting of crime in which the Department or the State of New Mexico is the Victim dated before the above effective date.

- TITLE:** Reporting of crime in which the Department or the State of New Mexico is the Victim
- AUTHORITY:** NMSA 1978, § 12-6-6
- REFERENCES:** Criminal acts by public officers and employees are covered by various sections of the New Mexico Criminal Code (Chapter 30, Criminal Offenses, NMSA, 1978).
- PURPOSE:** To ensure proper reporting of crime in which the department and/ or the State of New Mexico is/ are the victim(s).
- APPLICABILITY:** All department employees.
- ATTACHMENTS:** N/A
- DEFINITIONS:** *Retaliation*-an act of discrimination or punishment against an employee for reporting an alleged crime or for cooperating, giving testimony, or participating in any manner in an audit, investigation, proceeding, or hearing.  
*State Funds*-currency, checks, or other negotiable instruments belonging to the State of New Mexico, or for which the State of New Mexico is the fiscal agent, or has fiduciary responsibility.  
*State Property*-anything in which the State of New Mexico has ownership rights.  
*State Records*-documents of original entry for financial transactions, contracts, personnel actions, official letters and memoranda.

  
Jacqueline Cooper, Chief Public Defender

6.19.12  
Date

**POLICY:**

- A. Department management is committed to preventing crime against the department and/or the State of New Mexico and all department employees must share in this commitment.
- B. Department employees, especially district defenders, team leaders/supervisors, and administrators, must be aware of the circumstances, which may identify or suggest crime against the department and/or the State of New Mexico.
- C. All department employees shall be aware of their responsibilities to report suspected crime.
- D. The department shall respond to all reports of suspected crime.
- E. The department shall follow investigation guidelines to ensure each investigation of suspected crime is fair and confidential.

**PROCEDURE:**

- 1. Reporting Responsibility
  - a. Employee

An employee who has knowledge of a crime or has reason to suspect that a crime may have occurred shall immediately notify her supervisor. If the employee has reason to believe that the supervisor may be involved, the employee shall immediately notify that supervisor.

    - i. All employees shall cooperate with investigation(s) authorized under this policy. An employee shall not discuss the investigation with anyone other than the employee(s) conducting the investigation or law enforcement officials investigating the allegation.
    - ii. No employee is authorized to conduct any type of private investigation of a suspected crime without the explicit written approval of the CFO. The Risk Management Division (RMD) may assign a department employee to conduct an investigation if the crime involves the RMD.
    - iii. Intentionally false or vindictive allegation of fraud is a violation of this policy and may result in disciplinary action, up to and including dismissal.
  - b. Supervisors

Upon notification from an employee of a suspected crime, or upon the supervisor's personal suspicion that a crime may have occurred, a supervisor shall immediately notify the district defender. However, if the supervisor has reason to believe that the district defender may be involved in a crime, the supervisor shall contact the Deputy Chief Public Defender or Chief Public Defender of the department.
  - c. District Defenders

Upon notification from an employee or supervisor of suspected crime, or if the district defender suspects a crime

may have occurred, the district defender shall contact the CFO.

d. Chief Financial Officer (CFO)

Upon notification or discovery of a suspected fraud, CFO will investigate and report to the Chief Public Defender. If the Chief Public Defender authorizes an investigation or fraud audit, CFO will conduct the investigation or fraud audit keeping the Chief Public Defender informed. The CFO may escalate the investigation by requesting the involvement of law enforcement officials or qualified outside investigators.

e. Chief Public Defender

The Chief Public Defender will notify the New Mexico State Auditor of any possible criminal statute violations pursuant to NMSA 1978, Section 12-6-6 and NMAC 2.2.2.10L1, L2.

2. Investigation Guidelines

a. Record Security

When a suspected crime is reported, the district defender, administrators and supervisors shall take immediate action to prevent theft, alteration, or destruction of relevant records. Such actions may include isolating the records and placing them in a secure location, limiting access to the location where the records exist, and prevent the crime suspect from having access to the records. Pertinent records must remain secured until the CFO advises the district defender otherwise.

b. Protocols for Contacts

After an initial review and a determination that the suspected crime warrants additional investigation, the CFO shall notify the Chief Public Defender and the appropriate district defender with justification for the escalation of the investigation. CFO shall notify the appropriate law enforcement agency or qualified outside investigators, requesting their assistance in the investigation.

c. Confidentiality

Employees involved in a crime investigation, including the employee initiating the report, shall keep all relevant information confidential. Disclosure of confidential information is a violation of this policy and may result in disciplinary action, up to and including dismissal.

d. Personnel Actions

If crime is proven by the investigation, disciplinary action may be taken against the employee(s) involved in conformance with the State's Personnel Policies and Procedures and those of the department.

- e. Retaliation  
Discrimination or retaliation against any employee for reporting crime or cooperating, giving testimony, or participating in an investigation, proceeding, or hearing is a violation of this policy.
  - f. Public Statements  
Because all information regarding an investigation is confidential as set forth *supra*, any public statement regarding an investigation may only be made with the express authorization of department administration and shall be coordinated in advance with the Chief Public Defender and the CFO.
3. Disposition of Investigation  
At the conclusion of the audit investigation, the CFO will communicate the results in writing to the Chief Public Defender. Any disciplinary action must be coordinated through the department's Human Resources Division. If a reasonable belief that criminal violations may have occurred and there has been no prior involvement of law enforcement agencies, copies of the investigation results will be sent to the Attorney General and the appropriate District Attorney. If the crime involves the loss of state property, the CFO shall refer investigation to its insurer and/or report such loss to the RMD. RMD may then seek restitution, as appropriate. If there was misuse of state assets, the department's Fiscal Unit shall record the amount due and bill the perpetrator. Upon completion of the audit investigation and all legal and personnel actions, all agency records used in the investigation will be returned by the CFO to the district/unit that normally has custody of those records.