



October 6, 2026

VIA ELECTRONIC MAIL ONLY

[REDACTED], Complainant

Re: Filing No.: NMDOJ-ITK-2026-10411
Filing Date: September 7, 2026
Filer: [REDACTED]
Respondent: McKinley County Sheriff's Office
Type: Inspection of Public Records Act ("IPRA")
Letter: Response

Dear [REDACTED]:

The New Mexico Department of Justice's (the "NMDOJ") Government Counsel and Accountability Bureau ("GCA") recently completed a review of your complaint received regarding the McKinley County Sheriff's Office (the "MCSO"). The allegations in the complaint raised concerns with the MCSO's compliance with New Mexico's government transparency laws, specifically the Inspection of Public Records Act ("IPRA"), NMSA 1978, §14-2-1 et. al.

Your complaint alleges that many of the IPRA responses to your requests were made in the last hours of the 15-day statutory deadline and that some of the IPRA requested documents will not be supplied in time for the Defendant's arraignment on October 2, 2026. You also stated that the McKinley County Sheriff James Maiorano III, accused you of improper conduct by using AI to draft your IPRA requests and allegedly told county personnel not to process your IPRA requests and that you had refused calls from his office and that you were "flooding" the MCSO office with AI IPRA requests.

You also alleged that the criminal complaint M-35-MR-2026-00188, signed by MCSO Deputy Bittony and which was approved by MCSO Sgt. Benally, contained many material discrepancies between the investigative narrative you supplied to the MCSO, as the victim of that crime, and the criminal complaint. When you brought this concern to Sheriff James Maiorano III, you were told by Sheriff Maiorano that he had reviewed the case and declared the investigation "sufficient." You also requested in your complaint to our office that you wanted the NMDOJ to "now to preserve and independently obtain the complete governmental record necessary to

establish what occurred” regarding the conduct of the MCSO regarding the criminal investigation.

Issues Presented in Complaint

1. Allegation that MCSO Violated IPRA

According to your complaint, you submitted an IPRA request on July 30, 2026, to the MCSO for your “own case records and evidence” regarding the criminal investigation regarding MCSO Case 2026-00010128. You receive a response from the MCSO on August 14, 2026, regarding your IPRA request. You then filed a supplemental IPRA request on August 15, 2026, and on August 21, 2026, MCSO produced the supplemental IPRA requested materials. Also, on August 21, 2026, Sheriff James Maiorano III emailed you saying his office would not be processing any further IPRA requests you might submit because of your use of AI software and that you would need to call the MCSO and talk directly with staff on a recorded phone line to submit any further IPRA request.

2. GCA Findings

The Attorney General has statutory authority to enforce this law, and we rely on concerns brought forward by the public to help identify and resolve issues of noncompliance by means of informal resolution. *See* NMSA 1978, § 14-2-12. Through this process, our agency clarifies explicit requirements as well as best practices and directs such action needed to cure violations and help ensure future compliance with the law. Serious issues of noncompliance or repeated noncompliance may result in further action from our agency.

Public bodies across our state at every level of government are required to comply with both the written requirements and spirit and intent behind our sunshine laws, which provide the public a fundamental right to obtain information regarding the affairs and business of our representative government.

Upon review of information available to our office, we do not find that the MCSO failed to meet the fifteen (15) day response requirement under NMSA 1978, §14-2-10. Both IPRA requests mentioned in your complaint were fulfilled within the fifteen (15) day response requirement of IPRA. It appears from our review that MCSO made good efforts to respond to your IPRA request, providing access to the available records within the statutory time frame and offering permissible explanations for any portions of the request that could not be fulfilled.

3. Allegation that MCSO Mishandled the Investigation

According to your complaint, you asked that there be “an independent substantive review of MCSO’s entire handling of this matter from beginning to end, including the underlying investigation and all source evidence” be conducted due to what you believe was a mishandling of your case.

4. GCA Findings

Your complaint focuses specifically on the conduct of Deputy Bittony, Sgt. Benally and Chief Deputy Eric Jim regarding the mishandling of your case. Under Peace Officer's Employer-Employee Relations Act, NMSA 1978, § 29-14-1 et. al, investigations of peace officers are conducted by the employer, which in this case would be the McKinley County Sheriff's Office. Unfortunately, this statutory requirement precludes the NMDOJ from conducting investigations into administrative actions of peace officers.

However, the NMDOJ did make a direct referral to McKinley Sheriff's Department on your behalf on September 14, 2026, on this matter. The NMDOJ sent a follow up letter to the MCSO on September 23, 2026 and received a response from the MCSO on September 29, 2026, that the MCSO had received the referral and are currently reviewing the case matter.

5. Request to Preserve and Independently Obtain Complete Governmental Records and Determine the Complete Record Requirements under New Mexico law and Applicable Law-Enforcement Standards.

According to your complaint, you assert that the MCSO has not provided you with the complete record of criminal investigation regarding the criminal complaint M-35-MR-2026-00188. You also asserted that preserving the complete records would establish how the criminal complaint was materially changed before filing with the court and that the complaint omitted material facts.

6. GCA Findings

Upon review of information available to our office, it is our understanding that the District Attorney for Eleventh Judicial District, John Bernitz, has been made aware of this matter and has been in communication with you. Since the NMDOJ is not prosecuting this case, District Attorney Barnitz would be the law enforcement agency overseeing the prosecution of your case and would there be the appropriate agency to be able to fulfill your requests regarding records, preservation, and the appropriateness and completeness of the investigation.

Conclusion

Based on our analysis and guidance provided here, we have made a direct referral to the McKinley County Sheriff's Office regarding your allegations that the investigation was mishandled and the Sheriff's Office has acknowledged to our office that they are reviewing this matter.

Finally, since you have been in contact with the District Attorney for Eleventh Judicial District, John Bernitz, we would suggest you contact the District Attorney's office directly regarding your requests for records, preservation of such records, and the appropriateness and completeness of the investigation.

NMDOJ-ITK-2026-1041-

October 6, 2026

Page 4 of 4

Respectfully,

Government Counsel & Accountability Bureau
New Mexico Department of Justice