



Victim Impact Statement, Sentencing Participation & Preservation Request — MCSO Case 2026-00010128

1 message



Tue, Sep 15, 2026 at 8:34 AM

To: John Bernitz <jbernitz@da.state.nm.us>

Please forward this correspondence and the attached victim impact statement to the prosecutor and victim advocate assigned to this case, and please identify both to me in your written confirmation of receipt.

Dear District Attorney Bernitz, Assigned Prosecutor, and Victim Advocate:

I am the victim and reporting party in the criminal case arising from the July 16, 2026 Greyhound incident and MCSO Case 2026-00010128.

Attached is my victim impact statement.

I am submitting it now because I want there to be no uncertainty later about what I am requesting, what I want preserved, or how I intend to participate before this case is resolved.

1. Preserve my statement and confirm receipt

Please preserve the attached statement in the prosecution file as my victim impact statement.

Please confirm in writing:

that it was received;

the date it was received; and

who within the Office is responsible for maintaining it and ensuring that it is addressed at sentencing.

2. Provide the written statement to the judge

I request that the exact written statement be provided to the sentencing judge through the proper court procedure before sentence is imposed.

Please advise how that will be formally documented, including whether the statement will be filed, lodged, marked as received, transmitted to the judge for sentencing, or otherwise preserved as part of the court record.

I am deliberately providing the statement through the prosecution rather than communicating directly with the judge.

3. I want to personally read it to the Court

The written statement is not a substitute for my personal participation.

I intend to personally read my victim impact statement to the sentencing judge.

I do not want it merely summarized by someone else or read on my behalf.

I request that my statement to the Court be made on the record at sentencing.

Submission of the written statement does not waive, replace, or satisfy my request to personally address the Court.

Please do not characterize me as unavailable to appear in person.

The logistics of my appearance can be addressed separately when necessary.

4. Notify me before this case is resolved

Please provide me timely notice of all proceedings affecting the disposition of this case, including any plea or change-of-plea hearing, negotiated disposition, sentencing or disposition hearing, continuance, dismissal, or other proceeding at which the case or sentence may be resolved or materially affected.

I particularly request notice before, not merely after, any proceeding at which a negotiated disposition could become final.

5. Confer with me before any negotiated disposition

I request a meaningful opportunity to confer with the prosecution before any plea agreement, negotiated disposition, dismissal, or sentencing recommendation is finalized or presented to the Court.

I understand that prosecutorial decisions ultimately belong to the State.

I am not asking for veto power over those decisions.

I am asking not to learn afterward that a decision materially affecting the case in which I am the victim was already made without giving me an opportunity to be heard.

6. Restitution

Please advise whether a separate restitution submission is required, what documentation is required, what deadline applies, and when restitution must be presented for consideration by the Court.

My submission of this letter and victim impact statement should not be construed as

waiving any request for qualifying restitution merely because a final amount is not included here.

7. Final disposition and record

Please provide me notice of the final disposition and sentence and, when available, a copy of the judgment, sentencing order, or other document memorializing the final disposition.

I also request notice of later proceedings materially affecting the sentence, probation, release, or other post-sentencing disposition to the extent provided by law.

8. Section 31-26-4 and the statutory gaps that have affected me personally

I expressly request the protections described in NMSA 1978, § 31-26-4, including notice of proceedings, the opportunity to confer with the prosecution, the opportunity to make a statement to the Court at sentencing, restitution for qualifying losses, and information concerning the disposition and sentence.

I recognize that the offense presently charged is simple battery and that simple battery is not expressly included among the offenses enumerated for purposes of the Victims of Crime Act in § 31-26-3.

But this case also exposes a larger problem that is not theoretical to me.

In 2025, House Bill 87 proposed eliminating the requirement in **New Mexico**'s adult criminal sexual contact statute that the intimate part subjected to nonconsensual touching be unclothed.

The bill did not become law before the 2025 legislative session ended.

On July 16, 2026, I reported repeated nonconsensual touching of intimate areas while I was clothed.

I was therefore personally affected by the precise statutory distinction HB 87 attempted to eliminate.

Had that legislation become law, the fact that I was clothed would no longer have been the statutory barrier it remained when I was assaulted.

I understand that this does not mean any particular criminal charge would automatically have followed. Charging still depends upon the evidence and every required element of an offense.

But the consequence of that legislative failure is not hypothetical to me.

I lived it.

And there is another gap.

Even adult criminal sexual contact under § 30-9-12 is not presently among the offenses expressly enumerated in § 31-26-3 for purposes of the Victims of Crime Act.

So I have found myself caught between two different limitations in **New Mexico** law: One affected how repeated nonconsensual touching of my clothed intimate areas could be classified.

The other now raises the question whether I receive the full statutory victim-participation protections of § 31-26-4.

I was personally failed by both gaps.

I reported the conduct.

I cooperated.

I continued pursuing the case.

A criminal case has now been filed.

I should not now become less of a victim for purposes of participation simply because the law's categories did not keep pace with what was done to me.

Regardless of whether this Office determines that every provision of the Victims of Crime Act technically applies to the offense presently charged, I am formally requesting notice of all proceedings, an opportunity to confer with the prosecution before any negotiated disposition, and an opportunity to personally address the Court before sentence is imposed.

If the Office concludes that any protection or procedure I have requested is unavailable because of the offense charged or the scope of § 31-26-3, please identify that determination and its legal basis in writing.

Please do not simply treat the requested protection as unavailable without telling me.

Confirmation requested

Please confirm:

receipt and preservation of my attached victim impact statement;

who will be responsible for handling it;

that my request to personally address the Court has been documented;

that submission of the written statement will not be treated as a waiver of my request to personally speak;

how the written statement will be transmitted to and documented by the Court;

that I will be notified before any negotiated disposition is finalized or presented;
how I may submit any restitution documentation; and
who my point of contact will be for these matters as the prosecution proceeds.

Thank you,



Victim / Reporting Party
MCSO Case 2026-00010128

She/Her/Hers

"After every chance for communication, compliance, and cooperation has been exhausted, only consequence remains."

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