From: Daniel Williams
To: Ramirez-Arechiga, Ivan, DPS
Cc: Leon Howard
Subject: [EXTERNAL] ACLU of New Mexico Comments on Proposed Amendments to 10.29.1 NMAC
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Ivan Ramirez-Arechiga
New Mexico Law Enforcement Certification Board
Ivan.Ramirez-Arechiga@dps.nm.gov,

Re: ACLU of New Mexico Comments on Proposed Amendments to 10.29.1 NMAC

Dear Mr. Ramirez-Arechiga and Members of the Law Enforcement Certification Board:

The American Civil Liberties Union of New Mexico (ACLU-NM) submits these comments regarding the proposed amendments to 10.29.1 NMAC.

New Mexico's law enforcement certification system serves an important accountability function. That system should provide members of the public with a meaningful and transparent avenue to report serious officer misconduct, particularly when an employing agency does not act.

Proposed 10.29.1.10(I) provides that when the Board receives information or a report alleging misconduct from a source other than a law enforcement agency, the Chief Executive Officer reviews the information and determines the appropriate action. If the CEO determines that the information may constitute grounds for disciplinary action, the CEO may initiate a formal misconduct complaint.

We are concerned that this structure leaves too much of the civilian complaint process undefined. A complaint should not effectively disappear because it originated with a member of the public rather than a law enforcement agency.

We therefore recommend that the final rule establish a transparent and accessible civilian complaint process that:

- **provides a clear acknowledgment when a complaint is received**, including a complaint or tracking number that allows the complainant to identify the matter in future communications;

- **makes the complaint process readily accessible to the public**, including clear information about how complaints may be submitted, what types of allegations fall within the Board's authority, and what generally happens after

a complaint is received;

- **permits complaints through multiple accessible means**, including reasonable accommodations for people with disabilities and meaningful language access, and makes clear whether anonymous or third-party complaints will be accepted;

- **establishes written standards for the initial review of civilian complaints**, so that the decision whether a matter proceeds is made consistently rather than through undefined discretion;

- **creates a record of the action taken on each complaint**, including whether it was referred for investigation, referred elsewhere, or closed without further action;

- **provides complainants with reasonable information about the status and ultimate disposition of their complaints**, to the extent consistent with applicable confidentiality requirements;

- **establishes reasonable expectations for the timeliness of the complaint process**, including notice when a matter remains pending for an extended period; and

- **requires regular public reporting about the civilian complaint system**, including, in aggregate form, the number and types of complaints received, how complaints were resolved at the initial review stage, how many proceeded to investigation or disciplinary action, and the time required to resolve them.

The proposed rule gives the CEO substantial discretion at the initial screening stage without defining what a member of the public should expect after making a complaint. A transparent process should allow a complainant to know that a complaint was received, understand generally how it will be evaluated, and receive appropriate information about what ultimately happened to it.

We recognize that investigative materials may be confidential under New Mexico law. Meaningful transparency does not require disclosure of confidential records or personally identifying information. Aggregate reporting and basic communication with complainants can provide accountability while preserving legitimate confidentiality interests.

The final rules should give members of the public confidence that allegations of serious misconduct will be received, evaluated under consistent standards, tracked through the process, and not simply disappear after they are submitted.

A public complaint process is only meaningful if the public can understand how to use it and trust that complaints will be accounted for.

Thank you for considering these comments.

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