

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

DAVID PARDO,

Plaintiff.

D-202-CV-2026-09702

v.

**NEW MEXICO CORRECTIONS DEPARTMENT
AND SHARON ALEXANDER, in her official capacity
as Records Custodians,**

Defendants.

COMPLAINT

Plaintiff David Pardo, through counsel, brings this action to remedy the New Mexico Corrections Department's unlawful withholding of public records. As NMCD's former Deputy General Counsel, Plaintiff was responsible for ensuring the Department's compliance with the Inspection of Public Records Act ("IPRA") and repeatedly documented systemic deficiencies in its practices. After Plaintiff refused to participate in proposed "adjustments" that lacked any factual grounding, constituted an abuse of managerial authority, and conflicted with merit system principles, the character of his workplace interactions changed, showing hostility and retaliation towards Plaintiff. Following his departure, Plaintiff sought records that might illuminate this shift. NMCD failed to timely produce non-exempt records and continues to withhold responsive materials without lawful basis. Plaintiff now seeks to enforce IPRA's mandate of transparency and accountability. For his cause of action, Plaintiff states as follow:

Parties, Jurisdiction, and Venue

1. Plaintiff is a resident of Albuquerque, New Mexico.
2. New Mexico Corrections Department ("NMCD") is an agency of the executive

branch of the State of New Mexico, as defined in NMSA 1978, Section 14-2-6(G), with its principal office in Santa Fe County, New Mexico. Sharon Alexander is the designated records custodian for NMCD (“Defendants”).

3. This Court has personal jurisdiction over the named parties. *See* NMSA 1978, § 38-3-1.1 (1988).

4. This Court has subject matter jurisdiction over this matter. *See id.* §§ 14-2-11 to -12 (1993).

5. New Mexico law governs the claims in this case. *See id.*

6. Venue is proper in this Court. *See id.* § 38-3-1(A) (1988).

Background

7. David Pardo (“Plaintiff”) is a former Deputy General Counsel for NMCD, where he was responsible for ensuring the Department’s compliance with IPRA, from February 2024 to September 2025.

8. Defendant NMCD is a public body subject to IPRA and obligated to timely produce non-exempt public records.

9. Plaintiff has over seventeen years of experience as an attorney, with over seven years of experience as a records custodian and IPRA attorney.

10. During Plaintiff’s tenure at NMCD, he observed longstanding structural deficiencies in NMCD’s IPRA compliance, including missed deadlines, improper workflows, quality control issues NMCD failed to fix, and inconsistent managerial practices.

11. Plaintiff repeatedly documented these deficiencies and attempted to correct them through written guidance, policy-based instruction, and supervisory oversight.

12. Plaintiff served as Acting Records Custodian between April and June 2024, prior

to the hiring of Sharon Alexander (“Ms. Alexander”). Plaintiff had no involvement in her hiring.

13. From the outset of her employment, Ms. Alexander bypassed Plaintiff on critical matters regarding IPRA compliance.

14. For example, Ms. Alexander did not follow IPRA policies created by Plaintiff at NMCD, bypassed his supervisory responsibility by going to upper leadership, or making her own decisions without consulting Plaintiff, and failed to follow black letter law when choosing to not disclose documents

15. These early breakdowns in managerial structure reflected a broader institutional pattern in which lawful IPRA compliance was not supported, prioritized, or welcomed. Instead, NMCD leadership fostered an environment where ad-hoc practices, blurred responsibilities, a preference for lack of documentation, and resistance to oversight were normalized.

16. These structural failures created a culture in which IPRA compliance was viewed as a source of internal friction rather than a statutory obligation. This culture predictably resulted in inconsistent practices, avoidable lapses, and internal resistance to accountability. The same institutional hostility to IPRA compliance that Plaintiff encountered during his employment now manifests in NMCD’s improper handling and withholding of the records Plaintiff requested and retaliation while he was an employee at NMCD.

April 30, 2025 to June 2, 2025: Unlawful Retaliatory Behavior from NMCD

17. On April 30, 2025, Plaintiff issued written protocols to address recurring quality-control failures in Ms. Alexander’s work. These protocols were approved by Mr. Mark Lovato (“Mr. Lovato”), general counsel for NMCD, and were intended to ensure accuracy, consistency, and compliance with statutory obligations.

18. Ms. Alexander became disrespectful and spiteful toward Plaintiff.

19. During a May 16, 2025 meeting, Mr. Lovato outlined clear expectations for Ms. Alexander's performance and communication going forward. He emphasized that, despite a reduction in her caseload from December 2024, recurring quality-control issues continued to arise and required correction. He stated that the Department could not afford "mishandled" requests. He also reiterated that Plaintiff, as the IPRA attorney, had "complete discretion" to set protocols designed to improve quality, and that Ms. Alexander was expected to follow those protocols.

20. Mr. Lovato further established a three-month "trial period," ending August 18, 2025, during which improvement in both quality and communication would be evaluated. He stated that if the number of requests with issues exceeded two or three during that period, the Department would need to reassess whether the existing structure was workable. He also made clear that the August 18 follow-up meeting would be used to determine whether the quality issues had been resolved and whether the working relationship could be stabilized. That meeting never occurred.

21. These statements reflected a clear managerial framework: (1) Ms. Alexander was expected to follow Plaintiff's protocols; (2) quality issues needed to be reduced to no more than two or three over a three-month period; and (3) the Department would reassess the situation on August 18. This framework directly contradicted later assertions that the issues were merely interpersonal or that Plaintiff's supervisory approach was the source of the problem.

22. However, despite the supervisory framework he had outlined on May 16, Mr. Lovato did not reinforce or implement it.

23. Instead, Mr. Lovato blamed Plaintiff for the problems with Ms. Alexander's IPRA compliance, and asked Plaintiff to make "adjustments" to his work and his relationship with Ms. Alexander

24. During this conversation, which Plaintiff tape-recorded, Mr. Lovato stated that the purpose of these adjustments was either to improve Plaintiff's working relationship with Ms. Alexander or to "build grounds to get rid of her," despite identifying no performance-based grounds for termination.

25. Yet, when Plaintiff raised specific concerns about Ms. Alexander's performance, Mr. Lovato dismissed them as "thorny" or "managerial," signaling that the issue for him was not her documented performance but interpersonal discomfort in the office, reflecting a subjective and pretextual approach to personnel matters.

26. Even if Mr. Lovato had no actual intent to terminate Ms. Alexander—a classified employee—his stated willingness to "get rid of her" based solely on interpersonal discomfort, rather than any performance-based grounds, was inconsistent with merit system principles requiring just cause for adverse action. By pressuring Plaintiff to "adjust [his] style" without identifying any specific misconduct or performance deficiency, Mr. Lovato used supervisory authority in a manner that lacked factual grounding and created the impression that similar consequences could be directed at Plaintiff if he did not comply. Such use of managerial power, untethered from defined standards or documented behavior, constitutes an abuse of authority.

27. In the days following the May 30 meeting, Plaintiff informed Mr. Lovato in writing that he would not participate in the proposed "adjustments" absent any concrete examples of conduct requiring correction. Plaintiff's refusal constituted protected activity under the New Mexico Whistleblower Protection Act's refusal provision. Plaintiff's refusal to participate in the proposed adjustments became the point at which workplace dynamics shifted noticeably.

Aftermath of the May 30 Meeting and Plaintiff's Refusal to Participate in Undefined "Adjustments"

28. Subsequently, communications from certain personnel, including the Chief

Information Officer, Jerry Brinegar, became more formal and guarded, and Plaintiff experienced increased distancing and isolation from colleagues.

29. Mr. Brinegar, whose records Plaintiff later requested under IPRA, began scrutinizing routine matters with unusual intensity during a period when NMCD leadership was particularly sensitive to whistleblower activity in other agencies.¹

30. For example, on July 7, 2025, Mr. Brinegar sent an email to Plaintiff denying him the ability to ascertain, from a legal perspective, whether records were subject to an IPRA exemption or could be disclosed.

31. Mr. Brinegar only provided samples of the documents requested to Plaintiff to produce.

32. The institutional reaction to Plaintiff's refusal to abide by Mr. Lovato's proposed "adjustments" to "get rid of" Ms. Alexander demonstrates that Plaintiff's insistence on accountability and statutory compliance was not welcome at the highest levels of NMCD.

33. In the final weeks of Plaintiff's tenure, Plaintiff documented additional performance failures by Ms. Alexander that created litigation risk, including thirteen quality-control issues as of August 18, 2025—far exceeding the "two to three" threshold Mr. Lovato himself articulated on May 16 and reflecting an overall error rate of approximately ten percent.

34. Plaintiff recommended that Ms. Alexander be placed on a performance improvement plan on September 22, 2025.

¹ Around this time, Jose Puentes, a former state prosecutor, filed a lawsuit alleging retaliation and discrimination under the Whistleblower Protection Act ("WPA"). See Phaedra Haywood, *Whistleblower suit claims financial mismanagement, racist behavior at New Mexico General Services Department*, Santa Fe New Mexican (July 8, 2025), available at https://www.santafenewmexican.com/news/local_news/whistleblower-suit-claims-financial-mismanagement-racist-behavior-at-new-mexico-general-services-department/article_9a4f5add-c5e5-4e9e-bd98-2de2d595ec42.html

35. Although Mr. Lovato initially agreed, he reversed course after Plaintiff submitted his resignation, and declined to take any corrective action, telling another attorney that Ms. Alexander had assured him that she “can do it all” once Plaintiff departed.

36. Upon information and belief, during and after Plaintiff’s departure, Mr. Lovato approved the rollback of the IPRA compliance structure that Plaintiff had implemented. These actions further demonstrate NMCD’s resistance to oversight and its incentive to avoid producing records that would reveal these failures.

The IPRA Request and Improper Withholding of Records

37. After leaving NMCD, Plaintiff submitted an IPRA request seeking records related to potential surveillance of him following the May 30, 2025 meeting and subsequent events.

38. Plaintiff submitted this request to determine the cause of the behavioral changes he witnessed during his time as the IPRA attorney at NMCD.

39. This timeline of events provides clear motive for Defendants to withhold records responsive to Plaintiff’s IPRA request, as disclosure would reveal internal misconduct, managerial avoidance, and retaliatory intent.

40. The request was given a NextRequest identifier numbers of 25-948 and 26-3.

41. NMCD’s response to Plaintiff’s request included delays, wrongful withholdings, and the involvement of personnel who had previously undermined Plaintiff’s authority and resisted his efforts to enforce lawful IPRA practices.²

² Per the Department of Information Technology’s Premium eDiscovery Access and Use Policy, a systems administrator with M365 administrative privileges—such as the Chief Information Officer—should not also hold user-level eDiscovery access, because “having the same person hold both eDiscovery system administration and use privileges could result in claims of data manipulation, improper access, or data loss,” and agencies are required to segregate those functions. *See* N.M Dep’t of Info. Tech., eDiscovery and Access Use Policy (last edited Aug. 2025). It is unclear how often the CIO accessed Plaintiff’s email account. However, the extent of any such access—confirmed or rebutted through production of responsive records—could implicate the safeguards and reporting obligations set forth in DoIT’s eDiscovery policy, including the requirement that deviations be reviewable by the

42. The same structural hostility to transparency and accountability that Plaintiff encountered during his employment now manifests in NMCD's improper handling and withholding of the records Plaintiff requested.

43. NMCD's denial of Plaintiff's request is not based on statutory exemptions, but to avoid disclosure of records that would reflect unfavorably on its leadership and internal practices.

44. For request 25-948, Defendants omitted records already in Plaintiff's possession that would likely show uncomfortable discussions about modifications to NMCD's IPRA Notice page, a requested by Plaintiff while NMCD surveilled his email.

45. Other records responsive to Request 25-948 were also withheld, including audit-log data that necessarily exists when Defendants search a user's mailbox – activity confirmed by the records they did produce.

46. The existence of these audit logs is further verified by Microsoft's own documentation and by cross-referencing IPRA responses from the Department of Information Technology, which administers and oversees NMCD's email system.

47. For request 26-3, Defendants omitted records already in Plaintiff's possession from both Mr. Lovato's and Ms. Alexander's emails.

48. For both requests, the omitted records show the months-long efforts Plaintiff made to bring NMCD into compliance with IPRA.

49. The records also show the challenges Plaintiff had in directing Ms. Alexander's work and her repeated (and employer-tolerated) resistance to his supervision.

50. By contrast, the records produced under both requests are routine and tend to show Ms. Alexander in the best possible light.

Governor's Office. This context explains why NMCD is reluctant to produce records that might reflect unfavorably on its data compliance practices.

51. This discrepancy signals a motive to withhold inculpatory records.

52. While Defendant NMCD produced records and provided reasons for redacting certain portions of the information, they did not provide reasons for withholding other records (i.e. attorney client privilege, exemptions under IPRA, etc.).

53. Defendants did not permit inspection of the requested records within fifteen days.

54. Defendants have not permitted inspection of the requested records within a reasonable time.

55. Defendants withheld records responsive to the request without any lawful justification for doing so.

56. Defendants have been out of compliance with IPRA regarding Plaintiff's request since at least December 3, 2025.

COUNT V: STATUTORY DAMAGES UNDER IPRA, N.M.S.A. § 14-2-11
All Defendants

18. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

19. Plaintiff is entitled to statutory damages pursuant to N.M.S.A. § 14-2-11 for Defendant's failure to comply with IPRA's procedural requirements, which were designed to ensure prompt compliance with the Act.

20. When a public body does not claim an exception, "[e]very person has a right to inspect public records of this state." N.M.S.A. § 14-2-1.

21. The Legislature commands not only access to public records, but timely access.

22. "A custodian receiving a written request shall permit the inspection timely or as soon as is practical under the circumstances, but not later than fifteen days after receiving a written request." N.M.S.A. § 4-2-8(D).

23. “If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request.” *Id.*

24. “Shall” is mandatory. N.M.S.A. § 12-2A-4.

25. “[W]hen the custodian fails to respond to a request or deliver a written explanation of [a] denial . . . the public entity is subject to Section 14-2-11 damages.” *Faber v. King*, 2011-NMSC-015, ¶ 16, 348 P.3d 173.

26. “Section 14-2-11 ensures prompt compliance by allowing for statutory damages of up to \$100 per day if a public body fails to timely respond to a records request.” *Id.* ¶ 31.

27. Statutory damages shall “be awarded if the failure to provide a timely explanation of denial is determined to be unreasonable.” N.M.S.A. § 14-2-11(C).

28. Additionally, when a public body responds to a records request, but fails to produce all responsive records for inspection, “that body is not in compliance with IPRA,” and is subject to statutory damages pursuant to § 14-2-11. *Britton v. Office of Attorney General*, 2019-NMCA-002, ¶ 33, 433 P.3d 320.

29. Damages under § 14-2-11 “not exceed one hundred dollars (\$100) per day” and shall accrue from the day the public body is in noncompliance until the records are produced or a written denial is issued. N.M.S.A. § 14-2-11(C)(2).

30. Plaintiff requested public records on XX DATE.

31. Upon information and belief there are responsive records to Plaintiff’s XXX, request which Defendant has withheld.

32. To date, Defendants have been in noncompliance with § 14-2-11 for at least XX days and counting.

33. Plaintiff is entitled to statutory damages for the Defendants' unreasonable failure to provide prompt access to public records or any formal denial letter as required by § 14-2-11.

COUNT VI: FOR AN INJUNCTION, COSTS, AND ATTORNEYS' FEES UNDER IPRA,
N.M.S.A. § 14-2-12
All Defendants

34. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

35. Plaintiff demands an injunction, costs, and attorneys' fees pursuant to N.M.S.A. § 14-2-12(A).

36. When a written request for public records "has not been permitted within fifteen days of receipt by the office of the custodian," the request "may be deemed denied," permitting a requestor to pursue all remedies provided in IPRA. N.M.S.A. § 14-2-11(A).

37. "[A] person whose written request has been denied," may bring an action to enforce IPRA. N.M.S.A. § 14-2-12(A).

38. "A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of [IPRA]." N.M.S.A. § 14-2-12(B).

39. "The court shall award damages, costs, and reasonable attorneys' fees to any person whose written request has been denied and is successful in bringing a court action to enforce the provisions of [IPRA]." N.M.S.A. § 14-2-12(D).

40. Plaintiff is entitled to an injunction requiring Defendant to respond to his IPRA requests.

41. The requested materials are public records, not exempt by statute and must be produced.

42. Plaintiff is entitled to his litigation costs and reasonable attorneys' fees in bringing this action to force compliance with IPRA.

43. In addition, Plaintiff asks for equitable relief to create more transparency and accountability to the people of New Mexico.

COUNT III: VIOLATION OF THE WHISTLEBLOWER PROTECTION ACT
NMCD

44. Plaintiff incorporates all of the preceding paragraphs as if fully stated herein.

45. The policy goal of the Whistleblower Protection Act is to promote "transparent government and the rule of law." *Flores v. Herrera*, 2016-NMSC-033, ¶ 9, 384 P.3d 1070.

46. Plaintiff was an employee of a public agency.

47. Plaintiff communicated with his employer, through Mr. Lovato, to tell him that he would not "build grounds" to get rid of Ms. Alexander without good cause.

48. Additionally, Plaintiff communicated with NMCD numerous times about better ways to follow IPRA's statutory goals and keep NMCD compliant.

49. Plaintiff communicated this in good faith due to the unlawful acts NMCD said or committed.

50. NMCD retaliated against Plaintiff by isolating him and surveilling his emails.

51. NMCD's retaliation caused Plaintiff substantial harm.

52. Plaintiff is entitled to compensatory damages, emotional distress damages, and punitive damages.

DAMAGES

WHEREFORE, Plaintiff respectfully seeks the following relief:

- A. An Order requiring the Defendant to produce all information, documents, reports and other material responsive to Plaintiff's records request;

- B. An Order requiring policies, procedures, or mandatory instruction regarding NMCD's approach to the Inspection of Public Records Act.
- C. An award of statutory damages of \$100 per day for each Defendant from December 3, 2025, until the Defendant provides the records requested, comporting with all requirements of N.M.S.A. § 14-2-11(B) and (C);
- D. An award of Plaintiff's costs and reasonable attorneys' fees.
- E. Any other relief the Court deems just and proper.

DATED: October 13, 2026,

Respectfully Submitted,

Smith & Marjanovic Law, LLC

/s/ Margaret Sparrow

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