8-504.1. Discovery; redaction of witness or victim information.

A. **Scope of rule.** This rule applies to documents and other materials subject to disclosure under Rule 8-504 NMRA.

B. **Definitions.** For purposes of this rule the following definitions apply:

(1) "counsel team" means the attorneys representing the parties and their employees or contractors who are participating in the preparation of the prosecution or the defense, provided that "counsel team" does not include the defendant or any members of the public;

(2) "personal contact information" means a person's home address, home phone number, personal cell phone number, or personal email address;

(3) "protected personal identifier information" means social security number, taxpayer identification number, financial account number, or driver's license number, and all but the year of a person's date of birth; and

(4) "public" means any person or entity except members of the counsel team or court personnel.

C. **Redaction of protected personal identifier information.**

(1) An attorney or prosecuting officer with an obligation to provide discovery to opposing counsel under Rule 8-504 NMRA may redact protected personal identifier information or personal contact information if the attorney or prosecuting officer deems it appropriate under the circumstances of the case. To do so, the attorney or prosecuting officer must:

(a) file a notice that redacted and unredacted discovery is being provided to the opposing party; and

(b) provide two versions of documents and materials subject to disclosure as follows:

(i) The first version may have redacted protected personal identifier information or personal contact information. For discovery provided by the prosecution, the defense counsel team may provide the redacted version to the defendant, and the defendant may retain the redacted version in the defendant's possession.

(ii) The second version shall be an unredacted version of the same discovery and shall be provided to the counsel team for the opposing party to accommodate the need for any conflicts checks and background investigation of victims and witnesses.

(2) If the prosecution has an obligation to provide discovery to a pro se defendant under Rule 8-504 NMRA, the prosecutor or prosecuting officer may redact protected personal identifier information or personal contact information if the prosecutor or prosecuting officer deems it appropriate under the circumstances of the case. To do so, the attorney or prosecuting officer must file a notice that redacted discovery is being provided to the defendant.

(3) If an attorney or prosecuting officer provides redacted discovery under this rule, unredacted discovery shall not be disclosed to the defendant or a member of the public unless the court issues a written order finding that the defendant or member of the public has a specific compelling need for the unredacted discovery. The court may issue an order permitting the disclosure of unredacted discovery on motion of a party, including a defendant acting pro se, or on the court's own motion.

D. **Failure to comply.** An attorney or prosecuting officer receiving discovery that includes redacted protected personal identifier information or personal contact information shall take all reasonable precautions to ensure that the unredacted version of the discovery is not disclosed by the attorney, prosecuting officer, or any member of the counsel team to the defendant or any member of the public. Failure to comply with the provisions of this paragraph may subject

the attorney, prosecuting officer, or other person to sanctions, including sanctions for contempt of court, or the initiation of disciplinary proceedings.

[Adopted by Supreme Court Order No. 22-8300-025, effective for all cases pending or filed on or after December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2026-00179, effective for all cases pending or filed on or after December 31, 2026.]

Committee commentary. — This rule creates a mechanism for an attorney to redact discovery as needed to protect victims and witnesses from violent crime and identity theft and to encourage their participation in criminal proceedings without compromising the needs of opposing counsel to conduct conflicts checks and background investigations and otherwise fulfill counsel's duty to provide ethical, competent representation. This rule does not alter the disclosure requirements of Rule 8-504 NMRA. Under Paragraph C, an attorney must provide an unredacted version of documents and materials subject to disclosure. As appropriate, witness lists may be drafted to avoid explicit disclosure of names and addresses by making reference to the unredacted discovery. The definition of "protected personal identifier information" in this rule is consistent with the definition set forth in Rule 8-112 NMRA (Public inspection and sealing of court records), and varies slightly from the definition of "protected personal identifier information" set forth in the Inspection of Public Records Act, [~~NMSA 1978, § 14-2-6(E) (2018)~~]NMSA 1978, Section 14-2-6(F).

[Adopted by Supreme Court Order No. 22-8300-025[~~, effective for all cases pending or filed on or after December 31, 2022~~]; amended by Supreme Court Order No. S-1-RCR-2026-00179.]