



## NEW MEXICO VICTIM'S RIGHTS PROJECT NEWSLETTER

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The New Mexico Victim's Rights Project attorney, Carolyn Callaway, representing the minor child victim and her parents, filed a Petition for a Writ of Superintending Control with the NM Supreme Court (*Ramirez vs. Marsh*) to prevent the disclosure to the defense the victims' U-Visa applications, which are protected by federal law.

A similar case (*New Mexico Immigrant Law Center v. Leos*) concerning T-Visa applications was consolidated with the NMVRP case. Specifically, the Court reversed the evidentiary decisions of the two district courts, both of which had ordered victims to produce the protected immigration documents to the defense.

The Supreme Court heard oral arguments on April 30, 2024, and issued an order and writs to both courts on May 7 requiring return and destruction of any of the materials released and prohibiting further production or use in future proceedings.

In these cases, the Court issued an order protecting the privacy of crime victims who are noncitizens. Both the U Visa and T Visa programs are intended to improve the prosecution of otherwise difficult to prosecute crimes. By safeguarding the confidentiality of this information, the Court ensured that crime victims could come forward without fear and that law enforcement could effectively investigate and prosecute offenders.

Pictured above from left to right are: Carolyn Callaway, Victims Rights Attorney, Linda Atkinson, Executive Director, and Melissa Ames, Victim Advocate. See the full press release below with links to the Supreme Court case.

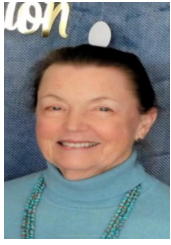


### **NM Supreme Court issues order against disclosure of immigration-related information of noncitizen crime victims**

The state Supreme Court today ordered that visa information of crime victims remain confidential and not be available to the men accused of the crimes and their defense attorneys for possible use in trials.

The Court issued an order reversing the evidentiary decisions of two district courts that required disclosure of T and U visa applications and related materials of crime victims and their parents for the defense of the men who allegedly committed the crimes.

The visa-related information includes answers to questions about the applicant's medical, immigration and criminal history along with a statement by the victims describing the alleged crimes... [Read more....](#)



**Since July 2020, Carolyn Callaway has been offering pro bono legal representation to clients of the New Mexico Victim's Rights Project, playing a crucial role in protecting and asserting their constitutional rights**

Carolyn Callaway moved to New Mexico in 1993 after graduating from Northeastern University School of Law. Building on her pre-law school career in federal government contracting, she built a solo practice providing legal services to firms with federal contracts.

She closed her practice just before the pandemic, with plans to travel and engage in other hobbies. Alas, covid put an end to that. Fortunately, she was rescued by longtime friend and even longer-time victims' rights advocate Linda Atkinson, who persuaded her she would enjoy victims' rights work.

The past three years have been challenging and exciting for someone who had never worked in the criminal justice system or the New Mexico courts. In that period, the NM Victims' Rights Project has been able to help clients whose rights were being ignored by filing motions to assert their rights as victims of crime, on occasion seeking relief from the NM Supreme Court when these rights were denied, and filing amicus briefs in related cases.



### **New Mexico Attorney General Raúl Torrez and Community Stakeholders Announce Special Session Legislative Priorities**

Attorney General Raúl Torrez, in collaboration with key community stakeholders, presented a set of legislative priorities they urge Governor Michelle Lujan Grisham to place on the agenda at the upcoming special session. These initiatives aim to significantly bolster law enforcement capabilities, clarify Geographical Positioning System (GPS) Data and ensure the effective protection of crime victims' rights throughout New Mexico.

"We cannot afford to miss the opportunity presented by the upcoming special session to improve public safety in New Mexico. The stakes are too high," said AG Torrez. "These requests are vital steps towards improving our criminal justice system. I am confident that they will garner bipartisan support and can be swiftly enacted to enhance the safety and security of all New Mexicans."

Community stakeholders and leaders at today's press conference echoed the legislative priorities laid out below. Those advocates and leaders included pretrial detention reform advocate Angel Alire, Farmington Police Department Chief Steve Hebbe, and Executive Director of the New Mexico Victim's Rights Project Linda Atkinson... [Read more...](#)



From the Executive Director: Linda Atkinson

The Governor has called for a Special Session to address Public Safety matters. The following policy changes would enhance public safety in this state, where too often the victims of violent crime are forgotten and certainly not at the table when the discussion about criminal justice reform is occurring. Victims voices must be heard and included in order to have a more just and equitable justice system.

### **Policy Changes Needed to Promote Public Safety in New Mexico (DWI Vehicular Homicide and Victims' Rights)**

- **Mandatory Minimum Prison Sentence DWI Vehicular Homicide**

**Issue:** New Mexico law currently does not treat vehicular homicide as a serious violent offense, and there is no mandatory minimum prison sentence for convicted offenders, yet there are mandatory minimums for DWI 2 and subsequent DWI convictions without death or great bodily injury. Include the language 'serious violent offense' in the sanctions for vehicular homicide.

**Proposed Change:** Introduce a mandatory minimum prison sentence for individuals convicted of vehicular homicide while under the influence of intoxicating liquor or drugs. This would ensure consistent punishment and deterrence. Adding the 'serious violent offense' language to the sanctions would ensure offenders would serve 85% of the sentence imposed. Currently, with good behavior they only serve 50% of the sentence imposed.

**Impact:** A mandatory minimum sentence and the 'serious violent offense' language would emphasize the severity of the crime and provide justice for victims' families.

- **Increased Funding for State Toxicology Labs**

**Issue:** Delays in toxicology results delay law enforcement investigations and court proceedings.

**Proposed Change:** Allocate additional funding to state toxicology labs to expedite testing and analysis of blood alcohol levels and drug presence in DWI cases.

**Impact:** Faster results would enhance evidence collection, strengthen prosecutions, and prevent delays in justice.

- **Streamlined Charging Process for Impaired Drivers in Fatal and Injury crashes**

**Issue:** Currently, charging impaired drivers with vehicular homicide can be extremely delayed (up 9 months) and time-consuming.

**Proposed Change:** Implement streamlined procedures to quickly charge impaired drivers accused of causing death or serious injury. This includes efficient evidence collection, standardized protocols, and collaboration between law enforcement and prosecutors.

**Impact:** Swift charges would lead to timely trials, ensuring accountability and preventing potential flight or destruction of evidence.

- **Change Statute of Limitations**

**Issue:** Wrongful Death Statute §41-2-2 - has three year statute of limitations from date of death.

**Proposed Change:** Change to date of discovery of person who caused death - e.g., D-202-CR-2016-03057. A murder occurred in 1996. The murderer was not identified until 2016 (by DNA).

**Impact:** Allow victims to sue for wrongful death.

- **Change Victim Restitution Statute, §31-17-1**

**Issue:** Courts are not consistent or well advised in ordering restitution even though that is a right of every victim. Often victims never receive restitution or the opportunity to address the court since attorneys rarely assist victims with restitution recovery.

**Proposed Change:** Change to something resembling Federal restitution statute. 18 USC § 3664

**Impact:** The monetary cost of a crime to the victim is rarely calculated or requested as required by the existing statute. Even when requested by victims, the courts often do not order restitution and rarely, if ever, assure that offenders pay restitution. For example, restitution should be paid during incarceration, and yet it is rarely collected. Restitution is considered part of the sanction imposed when an offender is sentenced and yet it becomes meaningless, and victims again are left re-victimized and ignored by the criminal justice system.

- **Establish the Office of the Crime Victim Advocate**

**Purpose and Responsibilities:** The Office of the Crime Victim Advocate will have the following key functions: Receiving and Investigating Complaints/Inquiries. The office will serve as a central point for victims to report any violations of their rights. It will thoroughly investigate complaints and take necessary actions.

**Training for Compliance:** The office will provide training to relevant stakeholders (including law enforcement, legal professionals, and victim advocates) to ensure compliance with victims' rights. Training programs will focus on best practices and legal requirements.

**Legal Authority to Protect Victims' Rights:** When necessary, the office will use its legal authority to protect victims' rights. This may involve pursuing legal remedies or advocating for victims in court proceedings. This Addresses Disparities The establishment of this office is crucial because disparities exist in how victims' rights are upheld and are often ignored and violated. By creating a dedicated entity, New Mexico aims to bridge these gaps and provide consistent support and protection for crime victims'.

These policy changes aim to enhance public safety, improve justice outcomes, and hold offenders accountable. By addressing these critical issues, New Mexico can create a safer environment for all residents.

