

**ALBUQUERQUE FIRE DEPARTMENT
STANDARD OPERATING GUIDELINES**

Fire Cause & Determination

SOG 4-1-01

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Fire Cause & Determination

It is the responsibility of Command to provide for fire cause investigation on the following fire- related emergencies: structure fires, explosions, fire code - related situations and of every fire incident causing serious injury/death or property loss/damage.

This must be accomplished after fire control activities and salvage, and before taking overhaul actions which could hinder the investigation.

There is a responsibility to determine fire cause in all cases. The Officer in Charge will be responsible for determining when a Fire Investigator is needed, based on information gathered or the circumstances of the fire. The on-duty Fire Investigators can be contacted via dispatch 24 hours a day by phone to consult with Command prior to or during response to assist Command.

An Investigator will be dispatched by Alarm or called by the Officer in charge and will respond to the scene in the following circumstances:

- Fire deaths or serious fire injuries
- On all working first or greater alarm structure fires
- Fires for which the cause cannot be determined by Command on the scene
- Explosions and bombings
- Requested by Albuquerque Police Department to respond to known arson fires

No Investigator is needed for the following situations but the company officer is responsible for the completion of an accurate Field Incident Report to document the fire cause:

- Minor fires where cause is determined to be accidental
- Scalding burns, electrical accidents, and minor accidental burn injuries
- Car fires originating in engine area during vehicle operation, or abandoned autos, or vehicle arson with no witnesses or suspects on scene
- Minor grass, fence, or trash fires with no witnesses or suspects.
- Traffic accident fatalities involving fire subsequent to collision are investigated by Albuquerque Police Department
- Known juvenile fire setters who have caused minor fires by playing with fire, matches, etc., can be referred to the Youth Fire setter Program.

If the incident is determined to be of a minor nature (e.g. accidental, with no injuries and slight fire damage) and the cause can be determined easily by the Company Officer on the scene through information received or by investigations of the fire scene (e.g. a stove fire with food remains on stove), units on the scene shall gather the information needed and accurately complete the required FD 200. If a victim requests information regarding their fire loss, for insurance purposes, the Company Officer can give the Fire

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Department Incident Number which will enable the victim to access Fire Department information regarding the fire. The victim should also be given a copy of the AFD "After The Fire" brochure to assist them.

When a Fire Investigator is on the scene or responding, companies shall delay nonessential overhaul and secure the fire scene until a Fire Investigator arrives. Salvage and all unnecessary interim activities which may alter or contaminate the fire scene, or which may interfere with a subsequent origin and cause investigation must be discontinued until authorized to continue by the responding Fire Investigator.

Command shall assign personnel to protect the fire scene and maintain custody of the scene until the arrival of a Fire Investigator, especially when delay in response to the scene by an Investigator has been indicated.

After achieving fire control, Command shall release companies not required to complete investigation and overhaul. In some cases involving lengthy investigation periods, companies may return to quarters and return later to the scene to complete overhaul activities when requested by a Fire Investigator.

Command shall turn over jurisdiction of the fire area to the Investigator as soon as possible after the fire is stabilized. The Investigator retains jurisdiction until the investigator releases it back to Command. The Investigator may inform Command that they intend to maintain custody of the scene for further investigation.

The Investigator shall request from Command any personnel or equipment necessary for the investigation. Command shall make every attempt to meet such requests, to the extent possible under the prevailing circumstances.

All personnel shall cooperate with the Fire Investigator and with the Arson Division. Protection of the fire scene and preservation of physical evidence must be a primary concern once life safety is secured and fire control is achieved. An attempt to identify the victim and any witnesses who are at the fire scene must be made as soon as possible, and shall not be delayed until the Investigator is actually on the scene.

Obtaining the identification of witnesses is critical to the conduct of the subsequent investigative process. If police officers are at the scene, the Company Officer may request them to obtain such information and identification for Fire Investigators, but if police officers are unable to comply with the request (as the result of other circumstances which may take precedence) the Company Officer retains this responsibility.

Destruction of Evidence

It is incorrect to believe that evidence is completely destroyed by fire. This misconception is the reason many incendiary fires have never been brought to the attention of the courts.

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Evidence is not destroyed in fires except in very rare cases. The form, shape, color, size, and weight may be altered, but evidence can still be identified upon trained examination. It is critically important to preserve evidence by not moving fire debris unnecessarily.

The Fire Department must protect the fire scene from unnecessary damage during firefighting operations. Special care must be exercised during extinguishment to avoid washing out evidence through misuse of fire streams. Overhaul presents the greatest potential for damage to evidence which may be used by the Fire Investigator and Police Department in subsequent court cases and prosecution. Salvage operations should be minimal until the investigation can be completed, and should be confined to diminishing eventual loss. Companies assigned to Loss Control Sector should incorporate scene security and evidence preservation into their plan to stop the loss.

The fire scene is the Investigator's laboratory. They must search it carefully and thoroughly, photograph the scene in place, diagram all evidence placement, and collect and preserve all evidence.

The fire scene must be guarded. Evidence cannot be used in court unless the Investigator can establish a chain of custody by proving who found the evidence, where it was found and prove that evidence was not tampered with while in official custody.

To ensure that the chain of custody remains unbroken, the scene must remain demonstrably in the custody of the Fire Department. Thus, at a fire scene where it has been determined that custody must be maintained, a guard must be posted, and custody must be maintained until the scene is released. No unauthorized persons may enter the scene. The Fire Department has the legal authority to close the scene entirely, even to the property owner or to other interested person/s. It is vital that the Fire Department prevent personnel from unnecessarily walking through a fire area, walking on, obscuring evidence, or picking up and moving evidence. This shall include both Fire Department personnel and the media. If it is essential that evidence be moved or if necessary firefighting operations may damage evidence, the evidence must be covered or its location marked before moving it carefully to a secure location.

Joint Fire/Police Investigations at Fire Scenes. Albuquerque Fire Department Fire Investigators are trained and certified as specialty peace officers with authority to investigate arson crimes. This training and certification meets the requirements of the New Mexico Law Enforcement Academy. Fire Investigators exercise peace officer authority including the use of force and firearms, search and seizure, and arrest only when investigating arson crimes defined in New Mexico Statute.

The Albuquerque Police Department is responsible to investigate all non-arson crimes discovered at fire scenes and Fire Department personnel will report such crimes to police and cooperate with police officers and detectives. Albuquerque Police and Fire

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Department Investigators will conduct joint investigation of fire deaths or life - threatening injuries at fire scenes:

- Fire Department investigators determine the fire cause and arson crime only
- Albuquerque Police are responsible for identification and removal of all bodies from fire scene
- APD determines the cause and manner of deaths in cooperation with the Office of the Medical Investigator to whose office bodies are delivered at the direction of police.

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Reports and Records

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1-05 REPORTS AND RECORDS

[7]

POLICY:

Department policy is to provide an efficient and reliable reporting system and to report and record significant incidents that come to the Department's attention.

RULES:

1-05-1 **REPORTS CONSIDERED PUBLIC RECORDS**

[7]

The following reports, including but not limited to supplements and statements maintained by the Records Section of the Albuquerque Fire Department:

- A. All incident reports.
- B. All accident and traffic offense reports.
- C. All offense reports that are ordered open to the public by a court of competent authority.
- D. Offense reports where a child has died and the case is awaiting disposition in the criminal justice system.
- E. All offense reports in which the offender(s) are currently in the criminal justice system awaiting disposition (see H. for exception).
- F. Offense reports where the case has resulted in a positive disposition for the state (see H. for exception).
- G. Offense reports that involve a child as a witness or victim of a crime and the case is awaiting disposition in the criminal justice system (see H. for exception).
- H. EXCEPTION to E, F, & G: Cases where a child is the victim of neglect and/or abuse, or in need of supervision (CHINS).

1-05-2 **RECORDS WITH LIMITED PUBLIC ACCESS**

[7]

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Records maintained by the Records Section of the Albuquerque Fire Department, that have limited public access are as follows:

- A. Runaway reports.
These reports may be released only to the child's parent(s), legal guardian, or their legal representative.

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*** GENERAL ORDERS ***

Effective: 03/10/00; Replaces: 05/17/95

1-05-2
cont'd

- B. Reports involving a child who is neglected, abused, or in need of supervision (CHINS).

These reports may be released only to the child, the child's legal representative, the parent(s), the child's legal guardian, or their legal representative, and the Human Services Department, Social Services Division; the victim(s), and/or the victim's legal representative.

1-05-3
[7]

RECORDS CLOSED TO PUBLIC ACCESS

Records maintained by the Records Section of the Albuquerque Fire Department, which are considered closed to the public, are as follows:

- A. All offense reports that result in a negative disposition such as "not guilty," "dismissed," "case not prosecuted," etc. This includes multiple offender cases where at least one offender receives a negative disposition.
- B. All children's cases where a child is listed as the subject of neglect, abuse, or in need of supervision (CHINS).
- C. All reports or records closed to the public by court order.
- D. All medical, psychiatric, or psychological reports.
- E. Law enforcement records that reveal confidential sources, methods, information, or individuals accused but not charged with a crime.
- F. Law enforcement records that include evidence in any form received or compiled in connection with any criminal investigation or prosecution by any law enforcement or prosecuting agency, including inactive/closed cases to the extent that they contain the information listed above.

1-05-4
[7]

ACCESS TO RECORDS BY OTHER AGENCIES

Records maintained by the Albuquerque Fire Department shall be provided, when requested, to law enforcement agencies, criminal justice agencies or their representatives, or other lawfully authorized agencies.

1-05-5
[7]

RELEASE OF ARREST RECORD INFORMATION

Arrest record information may be released to employees of federal, state, or local criminal justice agencies and to the person named in the record or to a person designated by him on form PD 4139-B, or a facsimile thereof.

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*** GENERAL ORDERS ***

Effective: 06/23/2006; Replaces: 08/31/2005
06-GOR06

1-05-6
[7]

PERSONNEL OF THE DEPARTMENT WILL WRITE REPORTS ON

- A. All felonies, misdemeanors, petty misdemeanors, traffic offenses involving physical arrest, or protective custody's, and any incident or warrant service resulting in an arrest.
- B. Suicides or attempted suicides, and death calls.
- C. Traffic accidents, except those where both parties agree to settle it themselves or on private property for which parties involved are provided forms on which to submit their own reports. Refer to the Traffic SOP on Traffic Accidents, for further information. Investigators will advise Radio of such prior to going 10-8.
- D. Any incident that is of great importance where the investigator is at the scene, at the scene of a crime, or any incident where a citizen/victim requests a report. The calling party WILL NOT be referred to the Telephone Reporting Unit.
- E. When directed to do so by a superior investigator.
- F. All child abuse or neglect incidents.
- G. All domestic violence incidents.
- H. All incidents involving abortion clinics and/or incidents involving any persons involved in abortion services. A copy of the report shall be forwarded to the Criminal Intelligence Unit for analysis and coordination with federal agencies.
- I. When personnel:
 - 1. Discharge a firearm other than training or recreation.
 - 2. Takes an action that results in or is alleged to have resulted in injury or death of another person.
 - 3. Applies force through the use of lethal or less-lethal weapons; or
 - 4. Applies weaponless physical force at a level as defined by the agency.
 - 5. Points his/her firearm directly at a subject to de-escalate a situation (this does not include the use of the "low-ready" position). A use of force form is not required.
- J. When evidence is collected detailing the circumstances by which the property came into the agency's possession and describing each item of property obtained.

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Effective: 07/21/03; Replaces: 04/30/03
03-GOR9

1-05-7
[7] **REVIEW AND REJECTION OF REPORTS**

Reports will be reviewed by a supervisor before being submitted to the Report Review Unit. In cases where a report is illegible, or fails to provide adequate information, Report Review will reject the report and return it to the supervisor for corrections.

- A. All reports received by a supervisor will be logged on a Daily Report Log, PD #3084, signed and dated by the supervisor. The supervisor will indicate on the log when it is a supplemental report, re-submitted report, or any other special notations.
- B. Supervisors will insure that the Daily Report Log is reviewed and signed by Report Review Unit personnel.
 - 1. When a report is logged, it will be attached to that log.
 - 2. The log and all attached reports will be taken, by the supervisor or his/her designee, to Report Review.
 - 3. Report Review Unit personnel will ensure that all reports logged are attached and will sign the report log indicating the reports arrived in Report Review.
 - 4. If there are discrepancies in the log, the discrepancy will be noted on the log and returned to the supervisor to find the report or supplement.
- C. The original Daily Report Log will remain in Report Review, a copy will be filed at the substation and a copy will be forwarded to the Operations Review Section.

1-05-8
[7] **TIMELINESS OF REPORTS**

All initial reports must be submitted at or before the end of the shift, except at the direction of a supervisor, with the exception of call-in case numbers, which must be submitted by the end of each shift.

- A. Only original reports or documents which are intended to be part of a case file and which are not already a part of the file, will be turned in to Records for processing.
- B. The only photocopies that will be turned in to Records are those documents generated outside the Department, e.g., hospital records, bank records, etc. The only exception to this will be photo copies from the Department's Identification Unit, which are intended to be included as part of the case file.
- C. Criteria for receiving a call-in case number are as follows:
 - 1. The investigator intends to tag items into the Evidence Unit.

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Effective: 07/21/03; Replaces: 04/30/03
03-GOR9

1-05-8 C
cont'd

2. The investigator requests a case number for an auto theft, or missing person entry/cancellation.
 3. The investigator requests a case number for a Field Investigator supplement report.
 4. Only the investigator responsible for the original offense report will be permitted to obtain a call-in case number.
- D. Investigators who have been issued a call-in case number will:
1. Write the case number on the original report,
 2. Write the case number on the supplemental report;
 3. And on any supporting documentation that is intended as part of the case or incident.
- E. A completed face sheet and synopsis must be included in the original report. The report will be submitted to a supervisor for approval by the end of the shift. The report must include the case number.
- F. Supervisors will ensure that the original report is completed and forwarded to the Report Review Unit by the end of the shift. (These reports may be hand-delivered.)

1-05-9
[7]

ALTERATION OF ORIGINAL REPORTS

Original offense reports and accident reports cannot be altered after their acceptance by Report Review. Changes and/or corrections must be made by supplemental reports.

1-05-10
[7]

ARREST INFORMATION VIA TELEPHONE

Telephone inquiries for arrest information will be honored only when the Department employee clearly recognizes the party calling to be a person authorized to receive arrest record information.

1-05-11

REPORTS OF ALLEGED INVESTIGATOR MISCONDUCT IN THE LINE OF DUTY

Department personnel will not write a police report of alleged investigator misconduct in the line of duty either by citizen request or of their own initiative. Personnel will follow the proper policy/procedure outlined in section 3-43 of the Department SOP, Administrative Orders Manual.

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Effective: 04/30/03; Replaces: 07/14/00

03-GORS

1-05-12

FELONY CASE PREPARATION GUIDELINES

[7]

All personnel responsible for submitting completed cases will refer to the felony case preparation guidelines for the District Attorney, which are included in the Procedural Orders section 2-39, to determine the proper order and content of a closeout supplementary report.

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1-39 USE OF TAPE/DIGITAL RECORDERS

POLICY:

It is the policy of the Albuquerque Fire Department to record contacts in which certain arrests have been made, portions of search warrants, or those contacts with the public that could result in complaints against department personnel. Investigators are directed to use tape or digital recorders for their protection to guard against claims of improper conduct. They are an effective tool that will be used in all the instances listed below, and other instances at the investigators' discretion. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

RULES:

USE OF TAPE/DIGITAL RECORDERS

- A. Personnel will use issued tape/digital recorders to document the incidents listed below.

It will be the responsibility of the primary investigator to ensure that the incident will be recorded in its entirety. If at any time the primary and secondary investigator(s) should become separated, it will be the responsibility of the secondary investigator(s) to record all their contact and/or actions during that incident.

1. Resisting Arrest
2. Disorderly Conduct Arrests
3. Refusing to Obey an Investigator Arrests
4. From the start of a search warrant until the area is secured.
5. Those contacts where there is reason to believe a complaint could result.
6. Domestic violence calls for court purposes.
7. All calls involving suspected suicidal and/or suicidal individuals.
8. When a citizen refuses to sign a citation.
9. When investigators seek verbal/written permission to search a residence, building, structure, or vehicles. Investigators will record through the duration of the search.

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DISPOSITION OF RECORDED CONTACTS

- A. All recordings listed above, and/or contacts where an arrest was made will be tagged into Evidence, and will be listed on the report as being tagged.
- B. In situations where no arrest was made, but there is reason to believe that a complaint may be made, the recording shall be retained by the investigator for no less than 90 days after the incident.
- C. Other contacts may be recorded on the same tape, but care should be made not to record over other previously recorded contacts.
- D. Personnel utilizing a digital recorder will lock/preserve the recording as soon as practical after the contact is over.
- E. When tagging a digital recording into evidence, investigators will ensure the recording is downloaded on to a CD-R.

RESPONSIBILITIES OF INVESTIGATOR

- A. All uniformed investigators will be required to carry the issued recorder while on duty.
- B. Personnel utilizing a tape recorder will ensure that the issued recorder is functioning properly, has adequate batteries for the entire shift, and is equipped with tape cassettes.
- C. Personnel will bring to the attention of their immediate supervisor any malfunction of the recorder. Arrangements will be made to repair/replace the recorder.

RESPONSIBILITIES OF SUPERVISOR

- A. Supervisors will include the issued tape/digital recorder in Quarterly inspections of equipment to ensure proper function.
- B. Supervisors will ensure that a recording of arrest incidents, as described above, is indicated in the report. If there is no recording, the report will include a detailed explanation of the incident and actions taken by both investigator(s) and offender(s).

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2-01 COURT

POLICY:

Department policy is to ensure that personnel are properly notified of scheduled court cases and Motor Vehicle Division Hearings in order to appear at the scheduled time properly prepared and attired. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

RULES:

POSTING OF ALL COURT NOTICES/MVD HEARINGS/FELONY PRETRIAL HEARINGS

Division Captain or Lieutenants are responsible for ensuring that all Court notices and Felony Pretrial Hearings are posted one week in advance of the scheduled time of court and shall provide Quality Assurance Investigator with a copy of all court notices. Personnel are responsible for checking the court notices each day.

NOTIFICATION TO COURTS OF VACATION, LEAVE TIME AND/OR OUT OF STATE TRAINING

- A. Personnel who have cases pending in Metropolitan Court or District Court and wish to take vacation, other leave, and/or attend training will notify the court offices of their intent by presenting the appropriate form (P-30) to the Court Services office after submitting the form to their supervisor. The P-30 shall be submitted not less than 30 calendar days prior to the start of the planned leave of absence.
 - 1. The Metropolitan Court Services Unit will enter the request into the Metropolitan Court computer system, then sign and date the P-30. Entering leave into the Metropolitan Court computer system does not cover personnel for Courts other than Metropolitan, personnel will be responsible for notifying other courts.

Personnel will notify the office of the District Attorney to reschedule any cases pending in the State District Court, or the United States Attorney's office to reschedule any cases pending in the Federal District Court.

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2. If the thirty (30) -day requirements are not met, personnel will not be relieved of their responsibility to appear in court when properly notified.
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- B. Personnel who have been selected to attend specialized training, which cannot be rescheduled or made up (not including M.O.E.), shall request exemption from Court hearings for that time period. The request will be made through the chain of command to the employee's Supervisor. If approved, the Metropolitan Court Services Unit will be notified.
 - C. Supervisors will not initial and forward completed P-30's, unless the above requirement is met.
 - D. When personnel transfer or change their days off, the Metropolitan Court Services Unit office will assign a new court date. Any previously scheduled court cases will remain on the investigator's old court date.

COURT, PRETRIALS, AND MISSED COURT

- A. All personnel directed to appear in court, pretrials, or must appear and be prepared to testify. A special court notice, posted court hearing notices, or subpoenas are considered an order to appear. For civil case subpoena and conflict of interest case directions will contact immediate supervisor and City legal department for direction.
 1. Personnel shall wait for defense attorney(s) to arrive for Metropolitan Court pre-trials fifteen (15) minutes from the time of the scheduled hearing.
 2. If an attorney calls to inform the investigator that he/she will be late, the investigator shall wait an additional fifteen (15) minutes if he/she is not expected in another court case. The same request will be made of defense attorney(s) when police personnel inform the attorney(s) that the investigator will be late.
 3. Personnel shall have documentation necessary for testimony in any court hearing, i.e., police report, tact plans, intoxilizer (breath) cards, intoxilizer calibration documentation, intoxilizer certification card, photographs, training material etc.
 4. Pagers and cell phones will be turned off or left in the investigator's vehicle prior to court/hearing. Investigators shall arrive for their court case/hearing at least five minutes prior to the scheduled time.

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- B. When personnel receive special court notices, subpoenas, requiring simultaneous appearances, the higher court notice shall take precedence between courts. Personnel shall notify the lower court of the second subpoena, at the earliest opportunity, and shall attend the court of higher jurisdiction
- C. When personnel are scheduled for court and are unable to appear or will be late due to unforeseen conditions, they shall notify the court at the earliest possible time, prior to the scheduled appearance. Failure of personnel to properly notify the court of their absence or tardiness for a court setting shall be deemed as failing to attend the setting.
1. Metropolitan Court notification - The investigator shall notify the Court Services Unit at 768-2290. Calls will be accepted on the day of court only.
 2. Court Services shall provide Division Captains with a monthly call in report. The report shall include the investigator's name, man number, case number, judge's name, court room number, date and time of the case, excuse by the investigator (if any), and the investigators immediate supervisor's name.
 3. District Court notification - contact the Assistant District Attorney named on the subpoena.
 4. Grand Jury notification (including 10-day cases), investigators will:
 - a. notify their immediate supervisor.
 - b. notify the presenting ADA of their absence and of any witness change.
 - c. contact a fellow investigator/detective involved in the case so that investigator/detective can testify on their behalf.
 - d. provide Quality Assurance Investigator a copy of Grand Jury notification
 5. Federal Court notification - contact the U.S. Attorney's office Monday through Friday, 0800 to 1700 hours.
- D. Appropriate excuses for calling in for court are:
1. Sick: Division Captain or Shift Supervisor, at their discretion, may require a note from the investigator's physician should he/she call in sick for court.
 2. Family emergencies: This only pertains to rare and unforeseen circumstances that necessitate the investigator's presence.

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Investigators shall make all arrangements for the care of their children before the court date. Division Captain or Shift Supervisor, at their discretion, may require a note from the attending physician in the event an investigator must miss court or pretrial because of a sick child.

- E. Inappropriate excuses for missing court, will be evaluated on a case by case basis. Examples of inappropriate excuses are:
 - 1. Tact Plans
 - 2. Training
 - 3. Day Off
 - 4. Vacation that was not pre-approved through Metropolitan Court Services Unit.
 - 5. Range

- F. When personnel miss any court session for which adequate notice was given, they will be subject to the appropriate discipline.

- G. The first offense within a 12-month period will result in a verbal reprimand and progressive discipline will be imposed for each subsequent offense.

- H. Metropolitan Court Continuances -
 - 1. Traffic, Misdemeanor and Parking cases:
 - a. Investigators requesting continuances will be responsible for contacting defendants or their counsel for objection as required by Metropolitan Court. "Motion for Continuance" include spaces for documentation, such as, when the defendant was contacted, defendants response, accident, shoplifting, and witness.
 - b. Personnel can receive information and paperwork on court cases/schedule from Metropolitan Court Services Unit personnel.
 - c. Metropolitan Court will not accept requests for continuances with less than five (5) working days.

 - 2. Criminal cases:
 - a. Investigators requesting continuances will be responsible for requesting the continuance through the Metropolitan District Attorney's office.

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- b. Personnel can receive information and paperwork on court cases/schedule from Metropolitan Court Services Unit personnel.
- c. The Metropolitan District Attorney's office will not accept requests for continuances with less than five (5) working days.

COURTROOM ATTIRE AND SECURING OF WEAPONS

A. Civilian Attire

1. Federal or District Court:

- a. Male investigators who appear or testify shall be attired in a dress suit or sports jacket complete with slacks, dress shirt and a tie.
- b. Female investigators who appear or testify shall be attired in pantsuits, dress suits, dresses, dress pants, or skirt and blouse. Dress shoes or dress boots shall be worn by both male and female investigators.

2. Metropolitan Court:

- a. Male investigators who appear or testify shall be attired in slacks, a dress shirt and a tie. Dress suits or a sports jacket are optional for Metropolitan Court *only*.
- b. Female investigators who appear or testify shall be attired as outlined in subsection **2-01-4 A** above.

B. Uniform Attire

1. Metropolitan Court - Investigators who appear or testify may wear the authorized working uniform.
2. Federal or District Court - Investigators who appear or testify may wear the authorized working uniform only in an emergency. Uniforms may be worn at preliminary hearings.

- C. Before appearing in Federal District Court or Federal Grand Jury, firearms or other weapons and pagers will be left at the U.S. Marshal's Office in the Federal Building, 12th floor, Room 12403. Firearms to be used as exhibits will be checked for safety by the U.S. Marshal before they are taken into a courtroom or its surroundings. If a marshal is not available, the presiding judge may designate a suitable person to take custody of the firearms and check the safety of the exhibits.

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- D. Personnel will not be allowed to carry firearms into the Bernalillo County Courthouse or the Bernalillo County Metropolitan Court Building. Upon entering the courthouse, personnel will secure their firearms in a lockbox at the security checkpoint. The only exceptions will be uniformed personnel responding to a call or emergency at the courthouse.

JURY DUTY AND WITNESS FEES

- A. Personnel called for jury duty will be paid their regular salary while serving on a jury. Any monies received by personnel for serving on a jury must be paid to the City.
- B. Personnel called as witnesses in cases as a result of their employment, will be paid their salary, per diem, and travel expenses by the city, as prescribed by law. Any monies paid to personnel while serving as a witness shall be paid to the City.

WITNESS FEES FOR TESTIMONY IN CIVIL CASES

- A. Only the investigator named on the subpoena in a civil case will accept service of the subpoena.
1. Failure to obey a subpoena may be deemed contempt of court. Investigators will accept service of civil case subpoenas naming them whether or not fees are attached.
 2. Investigators will however, at the time of service, demand such fees as are appropriate. Appropriate fees shall be no less than \$6.00. If fees are not tendered upon service or prior to the required appearance, this fact will be brought to the attention of the court for remedy.
- B. If the civil case is one which involves a pending claim or suit against the investigator, department, or city, or if the investigator believes there may be potential liability, the investigator will notify the Risk Management Division within 24 hours of subpoena service.
- C. Investigators appearing in civil court during their regular duty hours will endorse the check "payable to the City of Albuquerque only" and return it and the subpoena to their supervisor. The check and the subpoena will be forwarded by the supervisor to the Fiscal Management office.
- D. When an investigator is not required to appear in court, any checks received will be returned to the issuing party.

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- E. Investigators appearing in civil court during off-duty hours may either keep the check, or submit an overtime slip in the same manner as other court overtime.

CONFERRING WITH ATTORNEYS

A. Civil Cases

1. When contacted by private attorneys on civil cases in which the City of Albuquerque has no interest, investigators will:
 - a. Refer the attorneys to the applicable police reports.
 - b. If the attorney insists on discussing the case without benefit of a court directed deposition, the investigator will refer the attorney to the Risk Management Division for discussion with the City Legal Department.
 - c. If the Legal Department approves an informal conference between the investigator and the private attorney, the Risk Management Division will so notify the investigator, and the following will apply:
 - (1) On-duty investigators should respond to short questions from private attorneys by telephone, whenever possible.
 - (2) If a telephone conference is not sufficient, investigator may schedule an off-duty conference with the private attorney, however, investigators will not be compensated by the attorney.
2. No overtime and/or compensatory time slips will be accepted by supervisors for off-duty conferences between investigators and attorneys on civil cases.

B. Criminal Cases

1. Investigators will meet with defense attorneys when requested to do so. The District Attorney's office will be briefed on the intended meeting and given the option of attending.
2. A subpoena is not required for investigators to meet with defense attorneys.
3. If the assigned assistant district attorney does not wish to be present and the investigator still feels the presence of the assistant district attorney is necessary, the investigator should contact the District

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Attorney Services Unit who will take the appropriate action for an appeal.

CONFLICT OF INTEREST TESTIMONY

- A. Personnel who are subpoenaed to testify in any case in which they have not been involved in as a witness, victim, investigator, or reporting investigator, will determine what testimony is being sought.
- B. If it appears the testimony will be directed against another investigator or law enforcement agency, subpoenaed personnel will contact the Risk Management Division prior to giving any testimony or deposition.

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**2-08 SUBMISSION OF EVIDENCE, CONFISCATED PROPERTY,
AND FOUND ITEMS**

POLICY:

Department policy is to ensure proper chain of custody and to provide for the safe, efficient, and careful handling and preservation of all property and evidence that comes under the Department's control. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

RULES:

EVIDENCE-PROPERTY-FOUND ITEM ACCOUNTABILITY

Investigators collecting evidence, property, or found items are responsible for the custody of these items until they have been turned into the Evidence Room or Fire Investigation Division temporary evidence locker.

ITEMS TO BE TAGGED

All articles of evidence, safekeeping, and found items will be tagged and submitted to the Evidence Unit or logged into the Fire Investigation Division temporary evidence locker by the end of the investigator's shift. Only a supervisor due to exigent or unusual circumstances can authorize exceptions to this; however, the evidence must be placed in a secure setting within a police building such as a safe or a locker or cabinet that can be secured under the direct control of the supervisor. In addition, the tagging officer will seal all evidence tagged either in plastic or paper bags. The officer will insure that sealed evidence has the investigator's initials across the seal and the case number and date are written on the evidence bag prior to placing the evidence in a locker. Failure to place initials across the seal will result in rejection of the evidence.

All audiotapes/digital recordings will be sealed in jewel cases with the tagging investigator's initials across the seal. Recordings shall be logged into the temporary evidence locker after which the Quality Assurance Officer will transfer the item to the Permanent Recording Cabinet/Master File Room.

A log sheet will be initiated and signed by the Officer submitting the evidence and shall be monitored by the Quality Assurance Officer. The evidence must be tagged into the Evidence Unit within a reasonable period of time.

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It is the tagging investigator's responsibility to ensure that the evidence does not become intermingled with evidence from other cases. This will be accomplished by obtaining a case number and recording it on the appropriate location on the evidence tag, which will then be secured to an item or group of items which are physically differentiated from other items through the use of self-contained receptacles (i.e. a box or bag).

When items are tagged into evidence, the officer will complete the evidence tag and submit the evidence as delineated in Section 2-08.

- A. Large Items, Multiple Items
 - 1. Items that will not reasonably fit in the temporary evidence locker will be secured in the large item locker.
 - a. Fragile items or urgently needed investigative evidence will be taken immediately to the Metropolitan Forensic Science Center (MFSC) at 5350 Second Street NW.
- B. Perishable items will not be tagged into evidence. If the item is needed for prosecution, the officer will have an F.I. photograph it. After being photographed, the item will be returned to the owner or properly disposed of. If the item has an identifying tag attached, the tag can be removed and placed into evidence.

PROPER FILLING OUT OF EVIDENCE TAGS

The appropriate case numbers will be obtained from Communications by telephone for all items that are turned into the Evidence Unit or Fire Investigation division temporary evidence lockers.

- A. Handwritten evidence tags will be completed by the submitting officer for all articles turned in to the Evidence Unit. These tags shall be utilized for the purpose of entering appropriate information for the bar coding system. After information has been entered and accepted by the Evidence Unit and a property and evidence report has been given to the officer the handwritten tag maybe destroyed. The property and evidence report shall be included in completed case packet.

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- B. The evidence tag contains boxes that must be filled in or the item(s) will not be accepted. The Quality Assurance Officer shall ensure all Investigators are familiar with the appropriate boxes to be completed.

EVIDENCE LOG

Investigators and Evidence Unit personnel will complete the evidence log upon each deposit and retrieval of evidence. The evidence log will be maintained at all authorized evidence drop off locations. The Evidence Technician retrieving the items will reject any items placed in evidence that are not entered in the evidence log. The matter will be brought to the attention of the officer and their immediate supervisor.

TAGGING DRUG AND DRUG RELATED ITEMS

Due to the hazardous nature of controlled substances and related materials used in the production of controlled substances, the following procedures will be followed when tagging these items.

- A. Controlled substances will be tagged separately and heat sealed in plastic bags with the investigator's initials across the seal, using a permanent type marker. When tagging pills, capsules, etc. into evidence, the tagging officer will count the individual pills and note the number on the evidence tag in the area designated "remarks".
- B. Controlled substance items will be separated by type when tagged, e.g., marijuana and cocaine will not be placed in the same bag or on the same evidence tag. Controlled substances and narcotic paraphernalia will not be packaged together.

All evidence that is seized from clandestine laboratory investigations will be tagged at the MFSC, Evidence Unit using appropriate methods. The Evidence Unit will not accept most bulk chemical evidence found at these scenes. A sample of each pertinent chemical must be collected by an A.P.D. Chemist, (or by a clandestine lab certified officer under the chemist's direction) placed in separate leak proof containers, and tagged into Evidence by the case agent or designee. In the event that a bulk chemical exhibit, or any glassware cannot be sampled can be tagged into Evidence only with the permission of the A.P.D. Chemist at the scene. The Chemist will ensure that the exhibit is packaged and sealed so as not to compromise the safety of evidence handling personnel and the environment of the evidence storage area.

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- C. Green freshly pulled marijuana will be secured in a paper bag or box with an evidence tag attached to it with the words "Green Marijuana" placed in the remarks section.
- D. Evidence technicians will dry the marijuana and when the marijuana is dry, the tagging officer will be notified to come to the main Evidence Room to package, weigh, and seal it in plastic bags. At this time, the officer will note the weight of the marijuana on the evidence tag in the area designated "remarks". Under no circumstances will green undried marijuana be placed into evidence in plastic bags or other sealed containers.
- E. The tagging of money for evidentiary purposes on narcotics related offenses is not authorized unless the probability of a federal prosecution and federal forfeiture action is established. For consideration for forfeiture, the Department's policy is to adopt a minimum threshold of \$2500.00.
- F. When a federal forfeiture action is considered, Department personnel will contact the on-call Narcotics Sergeant for approval and further instruction.
 - 1. The on-call Narcotics Sergeant will be responsible for evaluating the case and determining whether a forfeiture action will be initiated.
 - 2. In those cases where a forfeiture action will be pursued, the on-call Narcotics sergeant will direct the personnel to photograph the money, document the amount and denominations of the currency in the offense/incident report and tag the money and film into evidence.
 - 3. Personnel will be responsible for completing the offense/incident report and forwarding it to the on-call Narcotics sergeant before the end of shift. Personnel will ensure copies of the evidence tags are included with the offense/incident report.
 - 4. The on-call Narcotics sergeant will be responsible for ensuring completion of the supp-out and forwarding all documentation including the completed case, DAG form 71 and any other requested documentation to the DEA within 30 days from the date of incident.
 - 5. The Narcotics Section commander will be responsible for tracking all forfeiture cases.
 - a. If the case is accepted for forfeiture action, the money tagged into evidence will be transferred to the custody of the DEA at their request.
 - 1) Authority to release the money to the DEA or their fiduciary, the US Marshalls Office, will rest with the Narcotics Section Commander.

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- 2) The Evidence Manager will be responsible for procuring a cashier's check or electronic transfer of the money.
 - 3) The Narcotics Section Commander is responsible for forwarding a copy of the DAG form 71 to be scanned into the evidence records management system by evidence personnel.
- b. If the case is not accepted for forfeiture, the Narcotics Section Commander will be responsible for ensuring the release of the money within 30 days from the date of incident
- G. It is the investigative investigator's responsibility to establish probable cause to believe that the money seized is the proceeds from narcotics trafficking. These specific facts and circumstances to establish probable cause to believe the money seized is proceeds from narcotics trafficking will be documented in the original report or a supplemental report.
- H. The supervisor approving the report and the seizure of the money will ensure that all specific facts are documented.
- I. In those cases where a forfeiture action is not being considered, personnel will photograph the money and document the amount and denominations of the currency in the offense/incident report.
1. Personnel will ensure the money is returned to the person from whom the money was temporarily seized.
 2. Personnel will be responsible for tagging the film into evidence.

TAGGING JEWELRY

Jewelry will be tagged separately from any other items and sealed in plastic bags.

TAGGING OF FIREARMS AND KNIVES

- A. Firearms will not be placed in plastic bags unless they are to be processed by Criminalistics. A copy of the Criminalistics Service Request form will also be placed in the bag.

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- B. Pellet/B.B. pistols will be tagged in the same fashion as regular evidence. Pellet/B.B. rifles will be tagged by affixing the evidence tag directly to the trigger guard.
- C. Evidence tags will be attached to firearms at the trigger guard or, if no guard is present, on a secure place.
- D. Unfired ammunition and/or fired cartridge casings that were found in the firearm (magazine or cylinder) will be separated from the firearm and packaged separately. Pens or similar writing devices will not be used to clear the chamber of firearms. Investigators will utilize plastic ties provided by Evidence. Under no circumstances will tape of any kind be used to affix ammunition, magazines, and holsters to the firearm.

Magazines will be emptied and then tagged with the firearm. Ammunition will be tagged separately.

Submitting fired cartridge casings for the National Integrated Ballistics Information Network (NIBIN) will be as follows:

1. Fill out a Criminalistics Service Request Form, checking the Firearm/Tool Mark box. Write the word "NIBIN" in the "Describe Examination Needed" section.
2. Submit casings found at shooting scenes. This also includes fired shot shells and rifle caliber cartridge casings. Do not submit casings removed from revolvers at this time. Do not submit fired bullets at this time.
3. If personnel suspect that a recovered firearm is involved in other shootings, with or without casings, submit a service request form as stated above, for the recovered firearm to be examined.
4. If a "HIT" is made, a Criminalistics Firearm and Tool Mark Detail report will be prepared. The submitting person will receive a copy of the report.

These guidelines will ensure the NIBIN System will operate properly and present personnel with information that will assist in the investigation.

- E. After a firearm has been processed by Criminalistics it will be tagged by the Evidence technician as described above.
- F. Firearms will not be disassembled prior to being tagged.

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- G. Pocket or folding knives will be closed when possible. Hunting knives will be kept in the knife sheath unless trace evidence will be destroyed. Long knives, razor blades, and any other objects with sharp cutting edges will have the edges protected by covering with cardboard or other suitable material and with the material taped securely into place to prevent accidental injury.

TAGGING MONEY

- A. Any money, regardless of the amount, submitted to the Evidence Unit, will be tagged separately from any other item and sealed in a plastic bag with the investigator's initials across the seal. Any money that is marked for identification purposes (marked money) will be tagged separately from all other money and identified as "marked money" on the bottom of the evidence tag by the submitting person. Marked money is that which is singularly identified (non-visible marking) in advance of its use to help document a transaction (usually a crime). The recording of serial numbers does not make it marked money.
- B. All money, regardless of value, shall be tagged at a substation and deposited in the "mail" type drop box, providing such items are properly tagged, bagged, sealed, (as appropriate) and logged on the substation evidence log.
- C. The Evidence Room will be the only recipient and holder of the drop box key.
1. Substations:
In the presence of a Field Services supervisor, the evidence technician receiving money at the substation will count the money and both will verify the amount. The opening of the plastic bag and the person witnessing the counting will be noted on the back of the hard copy of the evidence tag. If the amount is not correct, the money and evidence tag will be turned over to the witnessing supervisor and the same information will be listed on the back of the hard copy of the evidence tag, along with the word "REJECTED." The amount of the discrepancy will be noted. The date and time will be noted. The evidence log will also be changed.
 2. MFSC:
The evidence technician will verify the amount of the money being submitted into evidence in the presence of a **supervisor** before accepting it. The submitting person must be the person who signed

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the evidence tag. The verification will be noted on the back of the hard copy of the evidence tag.

- D. Money accepted into the Evidence Unit will normally be held in the unit's safe for a period of seven days. After seven days, the unit's supervisor will ensure that the money is deposited in the bank. Unless the tagging officer indicates otherwise in the remarks section of the evidence tag, the money will be deposited in the bank, with the following exceptions.

Marked money, coin collections, foreign money, altered money, or money obviously worth more than face value will be maintained in the Evidence Unit safe.

- E. Disbursement:
Court Orders, Release to Owner, Found Money
1. Upon receipt of a legal claim for money, the Evidence Unit will issue a check to the claimant after the claimant has made an appointment.
 2. If an officer requires marked money, coin collections, photocopies, etc., for court, the usual check out procedures will be followed.

VIEWING, AND CHECKING OUT EVIDENCE FROM THE EVIDENCE UNIT

Investigators must have official interest, present proper identification, and have the receipt or case number when viewing and/or checking out evidence. Evidence technicians will not look up case numbers.

- A. When items are retrieved from Evidence for court purposes, Investigators will:
1. Complete the chain of custody boxes by filling in the proper information on the inventory card and the back of the evidence tag.
 2. Be responsible for all items checked out until the hardcopy is returned to the Evidence Unit. The hard copy will then be attached to the file card and retained until all items have been returned.
- B. In all instances except lab analysis, a copy of the subpoena will be presented to the Evidence technician before a controlled substance is removed from the Evidence Room.
- C. Personnel wanting to view or check out evidence of six (6) items or more, will make an appointment seventy two (72) hours (three working days) prior

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to the viewing and/or checking out of the items. Criminalistics and sworn personnel needing items for court are required to notify the Evidence Unit within twenty four (24) hours (one working day) of the anticipated date.

- D. Investigators are to direct all questions from the public about items in evidence to the Evidence Unit. The public should be advised to telephone the Evidence Unit at 823-4600 prior to proceeding to the Metropolitan Forensic Science Center.

LABORATORY ANALYSIS OF EVIDENCE

When laboratory analysis is required of any evidence, it is the submitting officer or the investigating detective's responsibility to notify Criminalistics.

The officer will complete a Service Request form, available in the Evidence Unit, and deposit it in the Criminalistics box in the Evidence Unit or take it directly to Criminalistics personnel (For analysis of a narcotic or controlled substance refer to section 2-14-15).

When laboratory analysis of fire debris is required of evidence, it is the submitting investigator's responsibility to transport the evidence to the New Mexico Department of Public Safety Forensic Laboratory (Southern Forensic Laboratory). The submitting officer shall utilize the appropriate Department of Public Safety form. The form shall be printed on off white paper.

EXAMINATION OF EVIDENCE BY OUTSIDE AGENCIES

It is the responsibility of the officer who collects the evidence to tag, package, and send such items to other agencies for examination, if required. The Criminalistics Section will assist in whatever way possible to ensure that the proper procedures are followed by the responsible officer.

DISPOSITION OF EVIDENCE

- A. The investigating officer must sign the card for the release of evidence in felony cases which are acceptable to the District Attorney.
- B. Investigators must report the disposition on all cases when returning evidence to the Evidence Room, and sign a release form if the evidence is no longer needed.

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1. Requests for the status of cases will be sent to Investigators on cases that are more than one year old, through their respective commands. Investigators will advise evidence technicians if the items in question should be disposed of. If an item is to be retained, the officer will advise evidence of the case status: e.g., pending trial, warrant issued, etc.
2. If, after fifteen calendar days, the officer does not respond to the request, misdemeanor evidence will be disposed of. If the request involves a felony case, the investigator's commanding officer will be notified.

C. Disposition of Found Items

1. Investigators shall obtain pertinent information from the finding party including name, address, and phone number. Investigators will then attempt to identify the owner and return the property. If contact with the owner cannot be made during an investigator's tour of duty, the item will be tagged into Evidence as a found item. Information concerning the finding party should be reflected on the evidence tag. If contact is made at a later time (after the item has been tagged into Evidence) the owner will be provided the case number to assist in the return of the item.
2. Whenever any unclaimed personal property, which a finder has left in the possession of the city police, has remained unclaimed by the true owner for more than 90 days, Evidence Unit personnel shall notify, by mail, the person finding the property and advise that they may take possession of the property within 30 days.
3. If the property is not claimed by the finding party within 30 days, it will be disposed of as provided by law.

D. Safekeeping Property: Submission and Disposition

1. Property may be tagged into the Evidence Unit for safekeeping when:
 - a. The officer has exhausted all other possibilities of disposing of the property.
 - b. The owner is known.
 - c. The owner has a permanent mailing address.
2. The submitting officer will notify the owner that the Evidence Unit is holding the property and that he must have the property picked up within 30 days.

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- a. The date, time, and method of notification will be noted on the evidence tag.
 - b. The officer will also notify the owner of the operational hours of the Evidence Unit.
 3. Upon receipt of the property in the Evidence Unit, the Evidence technician will mail notification to the owner of the property, advising that the property must be picked up within 30 days or it will be disposed of.
 4. If the owner does not claim the property or the owner's authorized representative within 30 days, it will be disposed of as provided by law.
 5. No contraband will be accepted for safekeeping.
 6. Investigators will not take any non-evidentiary personal property from subjects being booked to submit for safekeeping, other than weapons, (such as guns, ammunition, knives or chemical mace), that will not be accepted at booking.
 7. Objects or articles of a non-evidentiary nature may be left with the next of kin or secured at the scene at the time of the preliminary investigation. Property items that are taken into police custody shall be tagged into Evidence for safekeeping. They shall not be released to anyone other than the court or a person authorized to receive them by either a court order or the Evidence Unit supervisor. Prescription drugs belonging to the deceased and seized as part of the preliminary investigation will not be released to a next of kin. Upon completion of the investigation, the drugs will be destroyed in accordance with Evidence Unit procedures.
- E. Authority to Release/Dispose of Case Evidence
1. After a case has been assigned to a specialized unit or to a detective, the original officer relinquishes authority for that case. The detective who assumes investigative responsibility for the case shall have the authority to release or dispose of case evidence. Often times, several Investigators/detectives will have the authority to sign the cards; then subsections 2 and 3 will apply.
 2. If an investigator's/detective's name does not appear on the front of the evidence card, but the officer/detective is in charge of the investigation of the case or has a significant investigative role in the case, the officer/detective will provide the evidence technician with documentation, such as a report supplement or the case assignment log, to show his/her authority to release or dispose of the evidence.

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3. Investigators/detectives will print their name in the "authority" box on the back of the evidence card and sign it. The officer/detective will present his/her driver's license or APD ID card to verify his/her identity. The evidence technician will note on the bottom portion of the card which ID was presented.
 4. Investigators/detectives will not mislead evidence technicians into believing they have the authority to dispose of evidence when in fact they do not.
 5. Investigators/detectives will not sign off on evidence cards to release or dispose of evidence as a favor to friends or citizens unless the officer/detective has the authority to do so, and the case is over with. If a request is made by citizens or as favors to friends to release evidence, the officer will instruct the person(s) to contact the officer/detective in charge of the case.
- F. Prior to disposing of evidence by detonation, the Inspections Unit will be requested to conduct an audit of all items being destroyed.

AMENDING EVIDENCE TAGS FOR SAFEKEEPING AND FOUND ITEMS

If an item was tagged into evidence for safekeeping or as a found item and it is now determined to be stolen, the tagging officer must amend the Evidence tag to show the name, address, and other identifiers of the owner. When feasible, the officer should have the item photographed and returned to the owner.

HANDLING OF REJECTED EVIDENCE

- A. Evidence or property collected off-site that are improperly tagged or otherwise requires rejection will be taken to the MFSC where the item(s) will be stored.
- B. The three categories of rejected evidence is outlined below along with the remediation process:
 1. *Improperly packaged evidence:* (no outer container, unsealed container, no initials on container) refer to "C" below.
 2. *Improper evidence tag:* (essential fields not completed or improperly completed) refer to "D" below.
 3. *Incorrect packaging:* (wet biological materials, mixed narcotics, unsheathed sharp objects, etc.) These are items that would require the tagging officer to re-open and repackage the evidence. Refer to "E" below.

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- C. In the case of improperly packaged evidence, the Evidence Technician will collect the rejected evidence, and will fill out a rejected evidence form describing the reason(s) for the rejection and how the packaging should be corrected. A copy of the form will be sent to the officer and his/her immediate supervisor. The officer may choose to make the correction at the MFSC Monday through Friday, 0630-1700 hours, and within 10 working days. If the officer does not make the proper corrections, then the Evidence Technician will correct the evidence by placing the item in a larger bag and resealing it with the Technician's initials across the second seal. The original tag will be affixed to the new outer bag.
- D. In the case of an improper evidence tag, the evidence technician will collect the rejected evidence and will leave a copy of the improper tag, indicating the corrections needed. The officer will contact the Evidence Unit with the correct information by facsimile or telephone. The evidence technician will document the contact, and correct the evidence tag.
- E. In the case of incorrect packaging, the Evidence Unit will collect the rejected evidence and will leave a rejected evidence notice with the officer and their immediate supervisor. The officer will be required to correct the evidence at the MFSC Monday through Friday, 0630-1700 hours, and within 10 working days.
- F. If an officer does not take steps to correct improper evidence tags, or incorrectly packaged evidence, the officer and their chain of command will be sent second and third notices, (as needed) concerning the evidence. If the officer has not corrected the problem after the third notice, the Evidence Supervisor will document and oversee the correction of the tag and/or repackaging of the evidence. The Investigative Bureau Deputy Chief will be notified by the Evidence Unit Supervisor of all Investigators receiving a third notice.
- [6] G. Should an officer receive three (3) rejected evidence notices on three different cases within a six (6) month period, corrective measures shall be taken by their chain of command. The Evidence Unit will notify the investigator's chain of command if this should occur.

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2-14 ARRESTS, ARREST WARRANTS, AND BOOKING PROCEDURES

POLICY:

Department policy is to arrest felony and misdemeanor violators of laws which its Investigators are empowered to enforce and to follow correct legal procedures required in arresting, booking, and filing charges against such violators. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

RULES AND PROCEDURES:

FELONY ARREST AUTHORITY

- A. Felony arrests may be made through the authority of a warrant or on probable cause.
- B. Probable cause felony arrests may be made for all:
 - 1. Felony narcotic offenses.
 - 2. Felonies in progress e.g., violent crimes, burglaries, etc.
 - 3. Violent crime offenses (e.g., aggravated battery, aggravated assault, criminal sexual penetration, etc.). See section 2-33 of this manual for crimes against children.
- C. For those felony offenses that do not fall within the above listed categories, an Investigator when deciding whether to effect an arrest or to merely submit the case for indictment consideration may make a probable cause felony arrest when probable cause clearly exists, under the following circumstances:
 - 1. When the offender has no community ties to the Albuquerque metropolitan area, e.g., transient, out of town resident, etc. or
 - 2. When one or more prior felonies or multiple offenses have been committed by the offender, or
 - 3. When the arrest is approved by a supervisor based on extenuating circumstances.

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PETTY MISDEMEANOR/MISDEMEANOR ARREST AUTHORITY

Subject, where applicable, to the provisions of section 2-18 of this manual, misdemeanor arrests may be made:

- A. By the authority of a warrant or court order.
- B. Based upon the Investigator's personal observation of the offense.
- C. For petty misdemeanor shoplifting offenses APD assistance will be requested.
- D. At the scene of a domestic disturbance when there is probable cause or believe that the person has committed an assault or battery upon a family or household member. APD assistance will be requested.
- E. For certain other offenses in which statutory law specifically permits misdemeanor arrests to be made based upon information received, rather than upon direct police observation.

ARRESTS-GENERAL

- A. An offense report indicating all charges and detailing the circumstances will be written by the arresting Investigator for any incident or warrant service resulting in an arrest or protective custody.
- B. Arresting Investigators will check N.C.I.C. /A.C.T.I.O.N. on all persons taken into custody. In the case of a hit subsequent to an arrest on other charges, the arresting Investigator will verify the hit through the N.C.I.C. /A.C.T.I.O.N. operator and advise the operator that the subject is in custody.

ARREST OF U. S. POSTAL SERVICE DRIVERS/MILITARY/ ARMORED CAR DRIVERS/ ILLEGAL FOREIGN NATIONALS/FOREIGN DIPLOMATS/ LEGAL FOREIGN NATIONALS

- A. The drivers of mail-carrying vehicles and armored cars shall not be taken into custody, except when they are charged with a felony or DWI, or when their mental or physical state is such that they are a hazard to the public. Upon taking such a driver into custody, the arresting Investigator shall:

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1. Immediately have the local United States Postal Service office/armored car company notified.
 2. Pending the arrival of a postal representative/armored car company supervisor, the arresting Investigator shall be responsible for the safety of the postal vehicle/armored car and its contents.
- B. Whenever active duty military personnel are arrested and placed into custody for any offense, excluding minor traffic charges, the arresting Investigator shall notify the Kirtland Air Force Base Security Police Desk and advise them of the arrest.
- C. Undocumented Foreign Nationals (Undocumented Immigrants)
1. The enforcement of immigration laws and the arrest of undocumented foreign nationals reside exclusively with the federal government.-
 2. Investigators shall not stop, question, detain or arrest any person solely on the ground that they may be undocumented and deportable foreign nationals.
 3. Investigators shall not inquire about or seek proof of a person's immigration status, unless the person is in custody or is a suspect in a criminal investigation for a non-immigration criminal violation and the immigration status of the person or suspect is pertinent to the criminal investigation.
 4. Investigators are not required to notify federal immigration officials and shall not call federal immigration officials to the scene of a stop or investigation, except in the case of suspected human trafficking. The following procedures apply to a case of suspected human trafficking:
 - a. Investigators shall obtain supervisor approval before contacting federal immigration officials; and
 - b. Investigators shall document the investigation in an offense/incident report.
 5. Investigators do not have the authority to place an "ICE" hold on individuals suspected of having violated federal immigration laws.
 6. Investigators shall not request assistance in language translation from any immigration official or agency.

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7. Investigators shall accept the Mexican Consular Identification Card (Matricula Consular de Alta Seguridad) as a valid form of identification. The Mexican Consular Identification Card is not an indication of a person's immigration status, nor is it sufficient evidence to establish reasonable suspicion of a person's immigration status.
8. All children have a right to attend public schools in the United States. Investigators shall not, under any circumstances, engage in stopping, questioning, detaining, investigating or arresting minor children (under 18 years old) on any immigration-related matter while on or immediately in the vicinity of public school grounds or property. Investigators are also prohibited from assisting others, including school personnel or other law enforcement Investigators or agencies, in detaining or questioning minor children on any immigration-related matter.
9. Nothing in this SOP shall prevent an Investigator from investigating any city, state or federal non-immigration criminal violation or taking any action necessary for Investigator safety.

D. Arrest of Legal Foreign Nationals (Legal Immigrants)

Whenever a legal foreign national is arrested, Investigators will:

1. Immediately advise the foreign national of his right to have his government notified concerning the arrest and/or detention.
2. The arresting Investigator will notify the foreign national's consulate of the arrest. (U.S. State Department guidelines)
 - a. The only foreign consulate office in Albuquerque is for Mexico.
 - ~~b.~~ Investigators will call the Mexican consulate when dealing with Mexican nationals at 247-4177, or 247-2147. The office is located at **1610 Fourth Street N.W., 87102**
 - c. If the foreign national is other than Mexican, the Investigator shall call the Dallas District Office at **202-647-4415**, FAX number **202-736-7559**.

***E. Foreign Diplomats**

1. Foreign Diplomats have diplomatic immunity concerning city ordinances and State and Federal laws under the guidelines of the State Department of the United States.

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2. Foreign diplomats will be dealt with on an individual basis.
3. They shall not be placed under arrest.
4. It is the Investigators responsibility to ensure that the respective foreign consulate has been contacted. See subsection D 2 above for contact information.

ARREST WARRANTS

- A. In order to serve any warrant, the following information must be provided by the agency requesting service of the warrant:
 1. Physical Description: The warrant must include a description of the wanted person sufficient to identify the fugitive. The description must include:
 - a. name
 - b. sex
 - c. race
 - d. height & weight
 - e. hair color, and
 - f. date of birth or social security number.
 2. Warrant Description: The warrant must include:
 - a. the originating agency
 - b. court issuing warrant
 - c. jurisdiction and state
 - d. charge(s)
 - e. date of warrant
 - f. warrant number
 - g. issuing judge, and
 - h. bond
 3. Extradition: If the warrant is not issued in the state of New Mexico, the warrant must indicate that the issuing jurisdiction will extradite before the warrant can be served.
- B. Requests for additional information from the issuing agency should be made when a question exists in the mind of an Investigator or supervisor as to the identity or location of the fugitive, or the validity of the warrant.
- C. If a discrepancy or contradiction exists in the description of the wanted person, Investigators will advise their immediate or on-duty supervisor.

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Supervisors will ensure that appropriate action is taken based on proper legal procedures.

- D. In order to alleviate the problem of the arrest warrant being canceled before the arrested individual has been turned over to the Metropolitan Detention Center and booked on the arrest warrant the following procedure shall be followed:
1. If an individual is arrested on an arrest warrant, and is not taken to the Metropolitan Detention Center, i.e.; has to be taken to the hospital or any other facility, the arresting Investigator will not pick up the arrest warrant at the time. The arresting Investigator will still have to fill out the necessary booking paperwork so that a police hold can be put on the individual who has been arrested.
 2. The arrest warrant will be picked up at the time the arrested individual is physically taken to the Metropolitan Detention Center and added to the paperwork which has already been filled out.

TELEPHONE REQUESTS

A telephone request for the arrest of a fugitive will be treated as information only until confirmed by teletype, N.C.I.C., or letter meeting the requirements set forth in subsection 2-14-5.

TELETYPE REQUESTS

Teletypes requesting assistance in locating and arresting a fugitive must include information necessary for the service of a warrant as outlined in subsection 2-14-5. If these requirements are not met, the issuing agency will be advised that APD cannot serve the warrant without additional information and the teletypes will be considered as information only and not as arrest authority.

- A. Teletypes permitting a choice will not be honored e.g., collection of fine in lieu of jail, restitution, court costs, etc.
- B. Teletypes requesting arrest on domestic matters -- child stealing, kidnapping, custodial interference -- should be carefully examined and referred to the Juvenile Section for service, except if exigent circumstances exist such as physical danger, abuse, or neglect of the victim child.

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- C. Teletypes requesting arrest on John Doe or white collar crime warrants should be handled with caution. Information which was the basis for the warrant may be fictitious as to the identity of the offender. For example, checks returned for insufficient funds later found to be stolen and forged.
- D. Teletypes from out-of-state agencies requesting arrest on high court misdemeanors must be directed to the Fugitive Unit for authority to serve.

GRAND JURY INDICTMENTS

Arrests stemming from grand jury indictments will be made only after the resulting bench warrant is received by the Sheriff's Department Warrants Section. Knowledge that a "true bill" has been returned by the grand jury does not constitute grounds for a valid arrest.

EXECUTION OF ARREST WARRANTS

- A. An N.C.I.C. /A.C.T.I.O.N. hit is sufficient probable cause to arrest with warrant authority when the identity of the suspect is clearly established and the warrant has been confirmed by the originating agency. Subjects who are Soundex hits will not be arrested without multiple points of identification which confirm the subject's identity. The arresting Investigator shall advise the N.C.I.C. /A.C.T.I.O.N. operator when the suspect is in custody.
- B. The search of a premise for a wanted person may be conducted only with consent to search or with a valid search warrant, except in situations concerning hot pursuit of the wanted person.
 - 1. If Investigators are denied access to a structure and they have probable cause to believe a wanted person is inside (e.g., neighbors say they saw the wanted person inside the structure), the scene should be secured and a search warrant obtained before proceeding with the search for a wanted person.
 - 2. An Investigator having personal knowledge (e.g., view of the wanted person in the wanted person's residence) has sufficient grounds to search even though consent has not been given nor a search warrant obtained.
 - Personal knowledge applies only to the wanted person's structure; it does not apply to a structure belonging to another person.

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- C. Investigators attempting to serve felony warrants will verify the warrants prior to checking the address on the warrants.
- D. Fugitives may insist that a warrant has been canceled to avoid apprehension. When in doubt, further investigation of the validity of the warrant may be necessary before arrest.

BOOKING ON THE BASIS OF A WARRANT ISSUED FROM BERNALILLO COUNTY

After confirming the existence of a valid warrant through N.C.I.C., Investigators shall:

- A. Notify the Sheriff's Department Warrants Section via radio or telephone that an arrest has been made as the result of a warrant.
- B. Sheriff Department Warrants Section personnel will "FAX" a copy of the warrant/printout to the Metropolitan Detention Center.
- C. The copy received by the Detention Center will be used in the booking procedure.
- D. Investigators will obtain a copy of the warrant (FAX) from the booking Investigator and submit it with the offense/incident report.

BOOKING ON THE BASIS OF A WARRANT ISSUED OUTSIDE THE JURISDICTION OF BERNALILLO COUNTY

- A. The arresting Investigator will cause a teletype to be sent to the jurisdiction holding the warrant, advising that the suspect is in custody and requesting a return teletype as soon as possible containing:
 - 1. The name of the judge who issued the warrant,
 - 2. Charges, bond, warrant number, and
 - 3. If the agency will extradite. A telephone call to verify the warrant is not sufficient.
- B. The suspect will be booked into the M.D.C.

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- C. A copy of the N.C.I.C. read-out and/or teletype will be furnished to booking personnel by the Investigator at the time of booking.
- D. All other correspondence will be handled by the Fugitive Detail and/or the District Attorney's Office.

INQUIRIES FROM OUTSIDE AGENCIES

- A. Inquiries from outside agencies who are holding a suspect wanted by APD will be referred to the data room of the Communications Section.
- B. Data room personnel will verify that there is an outstanding warrant in the Sheriff's Department Warrants Section. Computer verification is sufficient if the Warrants Section is closed.
- D. When an outstanding warrant is verified, a teletype will be sent to the department holding the suspect, requesting that a hold be placed on the suspect, giving the suspect's description, warrant number, and advising that the Albuquerque Police Department Fugitive Detail will advise them regarding extradition.

RELEASE OF PRISONERS ARRESTED IN ERROR/ERROR ON WARRANTS

Prisoners who are arrested and booked in error will be released as follows:

- A. The arresting Investigator's supervisor will contact the District Attorney Liaison Unit, Metro Court Liaison Unit, or Detention Center and they will assist in getting the prisoner released.
- B. If the supervisor is unable to contact the above listed unit personnel, the supervisor will contact the on call Assistant District Attorney (ADA).
 - 1. The supervisor will request the ADA to fill out a Nolle Prosequi on the prisoner.
 - 2. The supervisor will take the Nolle Prosequi to the Metropolitan Court Pretrial Services Unit at the Metropolitan Detention Center and have them file it for Metropolitan Court.
 - 3. The Metropolitan Court Pretrial Services will file the Nolle Prosequi and issue a Release Order on the prisoner.
 - 4. The Metropolitan Court Pretrial Services Unit will give the paperwork to the Metropolitan Detention Center so they will release the prisoner.

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5. The supervisor will ensure that the prisoner is released.
- C. The arresting Investigator will receive a copy of the Release Order and the Nolle Prosequi. The Investigator will then submit a copy of the completed offense/incident report along with the copy of the Release Order and Nolle Prosequi to the Risk Management Division.
- D. If an error is discovered before the person is booked, the person will be released and the details will be written in the offense/incident report.
- E. Release of subject in error on warrants - When it is determined that the wrong subject has been arrested based on a warrant, the following procedures will be adhered to:
1. The Identification Unit will notify the on-duty Communications supervisor immediately upon confirming the wrong subject is in custody. The Identification Unit will provide the Communications supervisor with the name of the identification technician, and the reason why the subject should be released (i.e., fingerprint, tattoos, and physical differences).
 2. The APD Communications supervisor will immediately notify the appropriate on-duty watch commander or sergeant of the inappropriate arrest.
 3. The on-duty watch commander or supervisor will have the arresting Investigator, if available, or another Investigator proceed to the Metropolitan Detention Center and begin the release process. The on-duty supervisor will also have APD Communications start the on-call Risk Management representative to MDC.
 4. The APD supervisor will ensure that a copy of the report is forwarded to the APD Risk Management Safety Investigator by the end of the shift.
- F. At no time will a prisoner be released "Pending Further Investigation."

BOOKING

- A. All charging documents (i.e., criminal complaint, citations) and the pre-booking forms will be given to Court Personnel immediately upon entering the R&D area.

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1. The criminal complaint, any citations and the pre-booking form will be stamped Filed/Endorsed-in by Court personnel once all documents are verified.
2. The pre-booking form will be returned to the Investigator so he/she may process the defendant through medical and through MDC's booking procedures.
3. Court personnel will not initiate a case unless there is a charging document (i.e., criminal complaint, citations). No one will be booked unless there is a charging document or an outstanding warrant.

B. Custodial Booking

1. Adult offenders arrested by department Investigators who are not eligible for the provisions of 2-14-14 (C), below, will be booked into the booking facility in the Metropolitan Detention Center. This will include all Federal, State, County, and City prisoners. Active duty military offenders wanted for AW.O.L. or desertion (etc.), who are arrested for a military offense only, may be turned over to military authorities at Kirtland Air Force Base. In all cases a report will be written.
2. Investigators will not request booking personnel make copies of any paperwork other than warrant(s) that have been faxed to booking for the Investigator.
3. Investigators shall not go behind the booking counter for any reason other than to use the rest room.
4. Knives, guns, ammunition or chemical agents will not be accepted by M.D.C. personnel to be placed in the prisoner's property. These items may be tagged into evidence as safekeeping in accordance with Procedural Orders 2-08-12 D.6.
5. Investigators will complete a pre-booking worksheet(s) prior to arriving at the detention center unless circumstances preclude this. Investigators will enter on the southwest corner of the building and use their horn or PA system to signal corrections personnel to open the entryway.
6. If an arrest is based on a warrant, the Investigator will specify the following on the pre-booking form:
 - a. warrant number and the type of warrant, felony or misdemeanor, and
 - b. the charges contained in the warrant, i.e., probation violation, possession of a controlled substance, burglary, etc.
7. The arresting Investigator will determine the charges and count level on all arrests in accordance with department guidelines, state statutes,

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- and municipal ordinances. The arresting Investigator will ensure that the correct specifications are indicated on the booking form by corrections personnel.
8. When additional charges are placed against an individual, the Investigator will notify the booking desk personnel in person, making sure that the offender is still in custody, that the right inmate is charged with the additional charge(s), and that the paperwork is properly administered. A supplemental report will be written to indicate this notification.
 9. Investigators will secure all weapons in their vehicles or in the lock boxes prior to entering the booking facility. The side handle baton, kubaton, and mace are equipment that are permitted to be carried by Investigators into the facility.
 10. A thorough search of the prisoner will be conducted at the Booking Desk by the arresting Investigator, or the transporting Investigator. In the event the prisoner is a female, the search will be conducted by a female Investigator, if available, or female corrections personnel. Strip searches are not mandatory.
 11. All prisoners being booked into jail will remain handcuffed until the booking process is completed, except when using the Intoxilyzer at the Detention Center.
 12. A subject who is being charged with a felony(s) and a misdemeanor(s), will be booked on felony charge(s) only.
 - a. The offender will be charged with all felonies and misdemeanors collectively in the District Court.
 - b. The original report will contain the misdemeanor charges the offender should be charged with.
 13. Report Distribution – Court Services Section
 - a. Investigators WILL deliver the following reports to Court Services:
 - 1) All felony arrest reports
 - 2) Aggravated battery, 30-3-5(B)
 - 3) Battery against a household member, 30-3-15
 - 4) Aggravated battery against a household member 30-3-16(B)
 - 5) Stalking, 30-3A-3
 - 6) Negligent use of a deadly weapon, 30-7-4

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- b. Investigators should send the following reports to Court Services:
 - 1) Driving Under the Influence of Intoxicating Liquor or Drugs (DWI), 66-8-102 - especially if there was a traffic accident with injuries regardless of severity.
 - 2) Any other offenses in which a person was injured and required medical treatment or evaluation.
 - 3) Enticement of a Child, 30-9-1
 - 4) Criminal Sexual Contact of an adult by force or coercion; without injury, accomplices or armed with a deadly weapon, 30-9-12 (D)
 - 5) Assault Upon A Peace Investigator, 30-22-21
 - 6) Other related domestic violence-type crimes (e.g. Assault Against a Household Member, 30-3-12; Criminal Damage To Property, 30-15-1; Use of a Telephone to Terrify, Harass, or Intimidate, 30-20-12)
 - c. The arresting Investigator will place a copy of the initial offense report in the Court Services drop box or FAX the report to Court Services.
 - d. Reports must be deposited in the drop box or faxed prior to 0700 hours of the next day after the incident.
 - 1) All faxed reports require a FAX cover sheet, which shall contain the sender's name and phone number, the type of document, and the number of pages being sent.
 - 2) All personnel placing felony reports into the drop box will ensure that the Courts Services felony case log is filled out.
 - e. If the initial offenses report has not been completed prior to 0700 hours, it is the arresting Investigator's responsibility to notify Court Services of the delay. If the Investigator attempts to FAX the report and is unable to complete the transmission due to mechanical problem, the Investigator will hand carry the report to the drop box and notify the Court Services Section of the problem during normal business hours.
 - f. Supervisors will be held accountable for those reports that are not sent to Court Services.
14. Injuries that may have occurred as a result of any action taken by the arresting Investigator(s) will be documented on the Offense and Incident Report Form.

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15. Investigators will notify R&D personnel if their prisoner(s) are a potential medical and/or security hazard.
16. Investigators will ensure they receive a copy of the booking slip signed by R&D personnel.

C. Non Custodial Booking (Processing and Identification)

1. A person arrested for a felony offense which is non-violent in nature shall be released by the arresting Investigator pending an indictment by the prosecuting agency (District Attorney's office, U.S. Attorney's office, etc.).
2. A person arrested for a violent felony offense is not eligible for release under this section. A violent felony offense is:
 - a. Aggravated arson, arson resulting in bodily injury
 - b. Aggravated assault and/or battery
 - c. Dangerous use of explosives
 - d. Homicide, homicide by vehicle
 - e. Voluntary and/or involuntary manslaughter
 - f. Kidnapping
 - g. Criminal sexual penetration, criminal sexual contact of a minor
 - h. Great bodily injury by vehicle
 - i. Abandonment and/or abuse of a child.
3. The arresting Investigator will not release a subject arrested for a non-violent felony if any one of these factors are present - When the offender(s):
 - a. is a flight risk;
 - b. has an extensive record that indicates a likelihood to commit additional criminal offenses;
 - c. identity is uncertain;
 - d. appears to suffer from a physical/mental impairment which indicates a likelihood that he/she presents to be a danger to himself/herself or to others;
 - e. poses a threat to victims or witnesses;
 - f. upon release, may interfere with the investigation of the crime on which he/she was arrested;
 - g. was arrested on the felony charges of residential burglary, aggravated burglary, trafficking in a controlled substance, or a felon in possession of a firearm.

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- c. background identification search, and
 - d. completion and forwarding of the "Processing and Identification" Form (PD Form 3089). The offender will then be released by the detention center.
9. Investigators are cautioned from using the promise of release to obtain confessions or incriminating evidence. Whenever possible, Investigators will tape record conversations with suspects concerning release. Investigators will not release a person once a formal complaint has been filed in Metropolitan Court.

D. Criminal Complaints

1. When booking a subject on misdemeanor or felony charges, the charging Investigator will submit a completed Criminal Complaint form.
2. The upper portion of the complaint form, with the exception of the docket number and date filed, will be completed in it's entirety by the charging Investigator.
3. The following information is to be recorded on the bottom right side of the complaint form in the indicated spaces. Criminal complaint forms require:
 - a. The Investigator's signature (complainant),
 - b. Title and man number,
 - c. Agency, and
 - d. APD CAD incident number.
4. Investigators shall complete the criminal complaint form, including the Investigator's first and last name, using legible, block print. Only ballpoint pens are authorized.
 - a. When these requirements are not met, Metropolitan Court will reject the complaints.
 - b. When notified of a rejected complaint, the Investigator will proceed to Metropolitan Court Services and complete a new complaint.
 - c. Comp time or overtime is not authorized to correct defective complaints.
5. The narrative section will include the essential facts supporting each charge in a synopsis format. If needed, additional criminal complaint

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forms may be used and the Investigator will write "Continued, p. 2" (or 3, 4,...) across the top of the form.

6. The charge line will contain the city ordinance or state statute number(s) for each offense.
7. The charging Investigator will sign the complaint form before the offender is booked. A supervisor will sign the complaint form in addition to the arresting Investigator if there are felony charges and/or misdemeanor charges. Telephonic approval is acceptable.
8. The charging Investigator will give the defendant his/her copy of the complaint form and submit the remaining copies to corrections personnel.
9. If the charge(s) involves a forfeiture of any kind (DWI, narcotics, firearms) the Investigator will place the term "FORFEITURE CASE" on the last line of the text of the criminal complaint.

E. Criminal Complaint Forms for Domestic Violence

1. Charges against a household member, inflicted upon a household member:
 - a. The charges shall be listed in the "charges" portion of the criminal complaint as a domestic violence incident. For example, when a household member is charged with harassment on a household member (30-3A-2), this "charges" portion of the complaint should read "domestic violence--harassment".
 - b. This procedure shall be followed for any domestic situation involving the following charges:
 - 1) Domestic Violence--Battery
 - 2) Domestic Violence—Assault
 - 3) Domestic Violence--Criminal Trespass
 - 4) Domestic Violence--Criminal Damages to Property
 - 5) Domestic Violence--Telephone Harassment
 - 6) Domestic Violence--Stalking, or
 - 7) Domestic Violence--Harassment
2. This procedure shall also apply to any criminal charge concerning a household member repeatedly driving by a residence and/or work place and any criminal charges relating to harm or threatened harm to children by a household member.

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FELONY OR MISDEMEANOR ARREST INVOLVING CONTROLLED SUBSTANCES

- A. All felony and misdemeanor arrests involving any narcotic or controlled substance will require, with the completed initial report, a Criminalistics Section Request for Service form (A.P.D. 4201) requesting drug analysis. The request for drug analysis will be forwarded to Criminalistics by the Assistant District Attorney in charge of the case, if the analysis is needed for prosecution.
- B. Investigators will submit copies of all initial felony reports to the DAL Unit prior to 0700 hours. Copies of the report shall be placed in the DAL Unit drop box located outside room #165 of the Investigator Service Unit of the Records Section, or FAXED to the DAL Unit.

(Refer to section 2-14-14 B 13 of this manual.) A copy of the request for drug analysis will also be required for a completed drug case.

CUSTODY OF PRISONERS

- A. When an individual is taken into custody, the prisoner must be guarded at all times except when placed in an area specifically designed for temporary detention.
- B. Use of an Area for Temporary Detention

When a prisoner is placed in an area specifically designed for temporary detention, the following procedures will be adhered to:

1. Detention rooms must be equipped with the following:
 - a. A window to view a prisoner(s)
 - b. When available, an audio/video and/or monitoring device will be used.
 - c. A handcuffing post
2. The Investigator In Charge (OIC) of the detainee will obtain authorization from a supervisor to place a prisoner in temporary detention.
3. The OIC Responsibilities:

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- a. A Temporary Detention Log (PD form 3097) will be kept in a highly visible location in, or immediately adjacent to the temporary detention area. The log will contain the following information:
 - 1) Name of the prisoner
 - 2) Date and time placed in and removed from temporary detention
 - 3) OIC signature
 - 4) Name of the supervisor authorizing the detention
 - 5) Record of the time the prisoner was visually and verbally checked (at a minimum, every 30 minutes, note subsection "2-14-16 B 3e" below).
 - 6) Violent prisoners, and/or prisoners who become violent will be monitored at all times, and will not be left unattended under any circumstances.
 - 7) If possible, the supervisor's signature should be included documenting the authorization to utilize temporary detention.

- * b. A security/cleanliness inspection of the detention area will be conducted prior to securing the prisoner to include:
 - 1) Fire prevention measures: ensure any and all property is taken from the prisoner and temporarily stored.
 - 2) The OIC of the detainee is responsible for evacuating the prisoner through the nearest exit.
 - 3) Ensure a fire extinguisher is in close proximity to the area of temporary detention.

- c. Before the prisoner is secured in the temporary detention area, the OIC will:
 - 1) Search the prisoner in accordance with Department SOP Procedural Orders, Section 2-19-4.
 - 2) Remove all items (evidence/personal property) from the prisoner and place them in a secure area during the period of detention.
 - 3) Any property of evidentiary value will be handled in accordance with Department SOP Procedural Orders, Section 2-08.

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4) Personal property removed from the prisoner will accompany him/her to booking.

*d. The prisoner will be secured (handcuffed) to a fixed object specifically designed for this purpose in such a manner that maximizes the comfort of the prisoner. The prisoner will not be secured to the fixed object for longer than two hours.

* e. The prisoner will be visually and verbally monitored, checking his/her behavior at least every 30 minutes, to ensure the safety of the prisoner. After 2 hours, the detainee must be booked/released or if continued detention is required, continually monitored by the OIC of detainee.

f. Males, females and juveniles will be held separately.

g. Prisoners are to be provided access to water, restrooms or any other justifiable need.

4. Security Measures

a. Investigators who interview, handle, or who are in close proximity to prisoners will observe all Investigator safety rules which may include removing their sidearm from their person and placing it in a secured area, such as a locking file cabinet.

b. Access to the temporary detention area where a prisoner is being held will be limited to sworn personnel only. If the area is a holding room, only the OIC or designee may frequent the room.

c. In all instances, the OIC will guard against any circumstance, which may arise that can facilitate an escape of the prisoner. If an escape does occur, the OIC will notify the watch commander and notify APD Communications to dispatch personnel to the area.

* d. In the event of an emergency, Investigators will utilize the red duress button on their hand-held radio to summon immediate assistance.

C. Temporary Detention Training

Division/Area Commanders will ensure that the mandatory training video for Temporary Detention is viewed by all personnel under their command. Supervisors will ensure personnel sign the Viewing Receipt form, verifying that they have received the training in the proper utilization of temporary detention of a prisoner.

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- D. Under special conditions which exist when prisoners are under hospital care, the rules providing for police guard/hold at hospitals will apply according to Department SOP, Procedural Orders, Section 2-11.

PHOTOGRAPHS OF INVESTIGATORS AND SUSPECTS/PRISONERS

- A. Photographs will be taken of all persons, the Investigator, suspect, and arrested person(s) involved in a incident where:
1. An Investigator, suspect or prisoner has been injured even though may not be visible,
 2. Subjects resist arrest in any manner.
 3. Subjects are charged with Battery on a Police Investigator and/or Aggravated Battery on a Police Investigator.
 4. Persons have pre-existing injuries. Investigators will document these injuries on the Offense and Incident Report Form.
- B. It is the responsibility of the arresting/reporting Investigator to ensure that a APD Sergeant or APD Field Investigator responds to the scene to assume the responsibility for taking photographs.
- C. Photographs Taken By the APD Sergeant
1. The APD Sergeant will take photographs if the injuries are minor and the person is not transported to the hospital for medical treatment.
 2. The APD Sergeant is responsible for submitting the exposed film to Criminalistics for processing, or the appropriate substation drop box, and for completing any accompanying logs.
 3. The APD Sergeant will be required to complete a supplemental report to include the nature of the injury or damage and complaints or claims of damage for injury reported by the subject.
- D. In all other instances, the photographs will be taken by a APD Field Investigator.
1. If the injuries to the Investigator or individual require medical treatment, the Field Investigator will take the photographs at the hospital.
 2. The APD Field Investigator is responsible for submitting the exposed film to Criminalistics for processing, or the appropriate substation drop box, and for completing any accompanying logs.

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3. The APD Field Investigator will be required to complete a supplemental report to include the nature of the injury or damage and complaints or claims of damage for injury reported by the subject.

RE-FILING OF CRIMINAL CHARGES

- A. If it has been determined that charges need to be re-filed, the Metro Court Liaison Unit or the District Attorney Liaison Unit will coordinate the re-filing of the criminal charges, as it pertains to their jurisdiction.
- B. When personnel are requested by the District Attorney's office to re-file a criminal complaint, the Investigator will comply with the request within three days or the next available work-day.

METROPOLITAN COURT BENCH WARRANTS

The following procedure will be used when any law enforcement agency brings an individual to MDC for booking on a Metropolitan Court Bench Warrant ONLY:

If it is discovered that a person who is being booked on bench warrants only and has the cash on hand to post his/her bond, the person is not to be taken through the booking process. Instead, the arresting Investigator is advised that the prisoner shall be escorted to the bonding window where the defendant can post his/her bond, clear the bench warrant, and receive any appropriate court date(s).

ISSUANCE OF CRIMINAL SUMMONS IN LIEU OF ARREST WARRANT

- A. A Criminal Summons Complaint can be filed for misdemeanor charges only.
- B. A police report must be written when filing a Criminal Summons.
- C. Criminal Summons Complaints should be completed on the State of New Mexico Criminal Complaint form with the word "SUMMONS" written across the top of the form.
- D. A Criminal Summons Complaint can be filed when:
 1. The Investigator did not witness the incident but has probable cause to believe the crime occurred.
 2. The offender cannot be located.
 3. The offender has been taken to a hospital and will not be released by the end of the Investigator's shift. (This does not include domestic violence offenders. Refer to section 2-11-4, Procedural Orders)

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E. Required information on the Criminal Summons Complaint

1. Offender information:
 - a. Complete name,
 - b. address,
 - c. date of birth, and
 - d. social security number
2. Record the name of each offense on the "charge" line. Abbreviations of charges cannot be used. Additionally, the corresponding state statute and/or city code number will be recorded on the "Sections" line of the complaint form.
3. Probable cause that the crime was committed must be established in the narrative and how the Investigator obtained the information.
4. If a traffic citation(s) and/or DWI citation are appropriate they must be filled out for each offense and attached to the complaint.
5. Required Investigator information:
 - a. Signature of the submitting Investigator,
 - b. Rank and man number,
 - c. agency, and
 - d. CAD Incident Number and/or case number.

F. Incomplete/incorrect information on the Criminal Summons Complaint

1. If the information on the complaint is incomplete/incorrect the Metropolitan Court will return the complaint to the District Attorney Liaison Unit (DAL).
2. DAL will return the complaint to the submitting Investigator for correction(s).
3. If the Summons Complaint is returned to the submitting due to an incorrect address, the Complaint will be dismissed.
4. The submitting Investigator must correct the Summons Complaint and forward it to the DAL Unit within three days of receipt.
5. If the Investigator is unable to locate the correct identifiers or a current address for the defendant, the Investigator will write a supplemental report documenting these reasons.

G. Filing the Criminal Summons Complaint

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1. The completed original complaint, including any traffic citation must be sent to the DAL Unit for filing.
2. If the complaint is computer generated, the original complaint in addition to three copies must be sent to the DAL Unit for filing.

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2-15 OFF-DUTY CONDUCT: POWER OF ARREST

POLICY:

Off-duty investigators are often faced with situations involving criminal conduct they are neither equipped nor prepared to handle in the same manner as if they were on duty. This may lead to unnecessary injuries to off-duty investigators, and confusion for those on-duty investigators arriving at the scene trying to correctly assess the facts. In order to promote safe and the most efficient operations, it is the policy of this department to determine and regulate those situations and location within which a sworn member is permitted to make an arrest while off-duty. These department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

PURPOSE:

The purpose of this policy is to provide guidelines to police investigators regarding acceptable criteria for affecting an off-duty arrest.

DEFINITION:

Personally involved: Where the off-duty investigator, a family member, or friend becomes engaged in a dispute or incident with the person to be arrested or any other person connected with the incident. This does not apply to situations where the police investigator himself is a victim of a crime.

PROCEDURES:

LIABILITY PROTECTION

The Fire Investigators of this department have liability protection from the on and off-duty performance of official duties. This protection does not extend to willful acts to cause injury or damage, or to those actions that the fire investigator knew, or reasonably should have known, were in conflict with law, or the established policies or customs of this department.

PERMITTED OFF-DUTY ARREST

When off-duty and within the legal jurisdiction of this fire department, a Fire Investigator may make an arrest only when:

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- A. The arresting investigator is not personally involved in the incident underlying the arrest; and
- B. There is an immediate need for the prevention of a crime or apprehension of a suspect; and
- C. The crime would be charged as a jailable offense required a full custodial arrest; and
- D. The arresting investigator is in possession of appropriate police identification. (Badge&I.D.)

OFF-DUTY RESPONSIBILITIES

- A. While off-duty, it is the responsibility of the fire investigator to immediately report any suspected or observed criminal activities to on-duty authorities.
- B. Except as allowed by this policy, off-duty investigators should not enforce minor violation such as harassment, disorderly conduct or the quality-of-life offenses. On-duty personnel shall be contacted to respond to the situation where an off-duty investigator becomes aware of such violations.
- C. Where an arrest is necessary, the off-duty arresting investigator shall abide by all departmental polices and procedures.

PROHIBITED OFF-DUTY ARREST

Fire investigators of this fire department may not make an arrest off-duty:

- A. When the arresting investigator is personally involved in the incident underlying the arrest; or
- B. When engaged in off-duty employment of a non-fire nature, and the investigator's actions are only in furtherance of the interests of the private employer.
- C. When the arrest is made solely as enforcement of a minor traffic regulation. Despite the fact that a fire investigator has police powers and responsibilities 24 hours a day throughout the jurisdiction, the off-duty investigator should not enforce minor traffic regulations.

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2-16 EXECUTION OF SEARCH WARRANTS

POLICY:

Standardized procedures will be followed in the execution of search warrants to ensure the effectiveness of the operation, the safety of personnel and the public, and that all legal requirements are met. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

RULES:

RESPONSIBILITIES OF AFFIANT OR AFFIANT'S REPRESENTATIVE

It is the responsibility of the affiant, or the affiant's representative to:

- A. Brief the supervisor about the circumstances of a warrant prior to presenting the warrant to the District Attorney's office, secure the District Attorney's approval, and present the warrant to the judge for approval by the judge.
- B. Ensure that a supervisor is present at the scene on all search warrants involving a dwelling or occupied structure and that the supervisor is thoroughly briefed before the search warrant is executed.
- C. Ensure intelligence is gathered as is practical and reasonable given all the circumstances surrounding the warrant prior to the execution of the warrant.
- D. Brief all participants about the area to be searched, items to be seized and any significant unusual circumstances which may exist involving the premises or its occupants. In situations where exigent circumstances are anticipated, the affidavit will include detailed facts upon which exigent circumstances are believed to be present.
- E. Ensure all necessary copies of the warrant are brought to the scene. Give the defendant's copy of the warrant and affidavit to the defendant, if present, or leave on the premises along with a copy of the inventory of all items seized.
- F. Be responsible for the return of the warrant, affidavit, and inventory to the District Court Clerk within three days.

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- G. Ensure necessary containers for evidence collected pursuant to the warrant are brought to the scene.
- H. If a diversionary tactic (ruse) that has the potential to adversely affect or disrupt the public, is needed for the effective service of a search/arrest warrant, or for the implementation of a court-ordered electronic listening/homing device, the tactic must be reviewed prior to approval by the City Attorney's Office and the Fire Chief or his designee.

RESPONSIBILITIES OF THE SUPERVISOR IN CHARGE

- A. The supervisor in charge will be the supervisor of the affiant.

Prior to serving a warrant the supervisor in charge will:

- 1. Be thoroughly briefed by affiant or affiant's representative and review the search warrant for probable cause prior to its being presented to the District Attorney's office. Additionally, ensure all significant, unusual circumstances regarding the premises or occupants are included in the warrant.
- 2. Accompany investigators on all search warrants involving a dwelling or occupied structure to ensure that:
 - a. all investigators who are part of the initial entry team shall display appropriate department identification and badge.
 - b. an adequate number of personnel are appropriately deployed.
- 3. Determine whether other agencies should be notified and included in the search; ensure appropriate measures are taken to make such notification and ensure such participation.
- 4. Ensure that specific tasks are assigned to each officer involved in the search as well as the assignment to videotape or photograph the scene after the scene is secure.
- 5. Notify Division Captain and APD Communications of the plan to serve a search warrant. The Officer will be responsible for making a determination whether or not Tactical Team will be used.
- 6. Notify AFD and APD Communication no later than 15 minutes prior to the service of the warrant of:
 - a. The location of the search.
 - b. The time of the search.
 - c. The unit or division responsible for the execution of the warrant.

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- d. Any special circumstances relating to the service of the warrant.
 - e. The approximate time the warrant will be served.
 - f. Log the location of the warrant on the MDT.
7. Ensure that if a warrant is to be served outside the city limits, the appropriate agency is notified prior to the service of the warrant. Representatives of that agency should be present, if possible and if they so desire, when the warrant is served.
 8. If a ruse that has the potential to adversely affect or disrupt the public is needed to effectively serve the search warrant, ensure that the tactic has received proper review and approval as outlined in subsection 2-16-1 H.
 9. Secure the area command frequency during the initial entry and until the premise is secured.
- B. If the Tactical Team is not going to be used, the supervisor in charge will:
1. Make certain that all Investigators who participate in the execution of the search warrant are wearing clothing which clearly displays the badge of office on the chest and the appropriate department identification that clearly identifies them as police Investigators prior to the execution of the warrant. Ensure everyone involved in the execution of the warrant is wearing protective body armor.
 - If an approved ruse tactic is to be used in order to effect the initial entry to a premises, the supervisor in charge will determine if the official clothing with the badge and patch identifying them as police Investigators will or will not be worn.
 2. Assign Investigators to points of entrance and exit as necessary until entry has been made.
 3. Be responsible for the decision to use force to gain entry in all situations where exigent circumstances are believed to exist.
 4. Ensure Investigators only use those tactics for which they are adequately trained.
 5. Ensure all persons involved in the execution of the warrant tape record the service of the search warrant. **Ensure simultaneous activation of the belt tapes prior to entry and simultaneous de-activation of the belt tape once the premise is secured.** This will

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include all persons on the entry team as well as all persons on the curtilage. **Ensure all tapes are collected and tagged into evidence by the case agent or his/her designee.** This section shall not apply to those situations where the scene has been secured prior to obtaining a search warrant.

6. Ensure police authority and intent shall be clearly announced at the appropriate time. The responsibility for making such announcement is to be specifically assigned.
7. Ensure an APD marked unit is parked on location and ensure the marked unit initiates red lights and begins making announcements over public address simultaneous to the service of the warrant. This section shall not apply to those situations where the scene has been secured prior to obtaining a search warrant.

C. After the warrant is served, the supervisor in charge will:

Ensure the following tasks are accomplished once entry has been made:

1. Immediately after the area to be searched is secured, ensure that the scene is videotaped or photographed prior to the search. When appropriate, ensure evidence is videotaped or photographed as it is discovered, prior to its seizure and removal. Ensure the scene is videotaped or photographed after the search is completed.
2. Assign Investigators to specific areas of the scene to protect the scene, search for evidence, and prevent the destruction of evidence.
3. All occupants of the residence shall be located as quickly as possible. All persons found on the premises will be placed in a designated area which has been searched and secured, with an officer present at all times. Each person will be identified in a reasonable period of time and if the person is not a resident of the house, if the Investigators have no specific reason to fear the person, or the Investigators have no reasonable basis to believe the person has some type of connection to the premises or to criminal activity, then the person will be released.

Persons will be frisked for the safety of the Investigators; however, they should not be searched unless it is specifically indicated in the search warrant, or if there is probable cause to believe the persons are concealing or will destroy any possible evidence.
4. Enter on the return and inventory the specific description of found evidence, the location where found, and the name of the officer who

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found the evidence. When multiple items are to be listed, a separate inventory sheet should be used if necessary.

5. Inventory all seized property.
6. Maintain seized evidence and ensure it is tagged into evidence.
7. Prior to leaving the premises after completing the warrant service and search, make every reasonable attempt to secure the premises.
8. **Ensure that every officer present completes a supplementary report detailing their actions and identifying the location of any evidence they collected.**

D. If the Tactical Team is going to be used, the supervisor in charge will:

1. Have the individuals who will be conducting the search stand-by in a pre-designated outer perimeter area or assigned post.
2. Resume control of the situation after being advised by the Tactical Team supervisor that the premise to be searched is secure.

KNOCK AND ANNOUNCE/FORCEFUL ENTRY

- A. Investigators are required to knock and announce their identity and purpose and to wait a reasonable time to determine if consent to enter will be given prior to forcefully entering a residence to execute a search warrant unless exigent circumstances exist
- B. Forced entry may be justified by exigent circumstances. Exigent circumstances are defined as an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or destruction of evidence. Exigent circumstances include, but are not limited to:
 1. Demonstrable risk that evidence will be destroyed while Investigators wait to be denied entry.
 2. Specific information exists indicating that danger to Investigators or others present may be increased or a reasonable belief exists that full or partial compliance with the Knock and Announce rule would create or increase the risk of violence towards Investigators.
- C. The supervisor in charge will confer with the Division Captain or Commanding Officer on warrants that may require force to gain entry prior to serving the warrant.

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- D. When reasonable, the supervisor in charge may contact the property owner to gain entry.

USE OF THE TACTICAL TEAM

- A. The supervisor shall make a determination, based on available information, whether the Tactical Team will be used to execute a warrant. The supervisor will notify the Division Captain or Commanding Officer of such determination and the basis for such. The commanding officer will have the responsibility for making the final decision.

1. The Tactical Team shall be used in all situations in which the suspect is known to be armed and is likely to use armed resistance.
2. The Tactical Team shall be used in all situations where the location is believed to be a large scale drug manufacturing location where explosive chemicals are used.
3. The Tactical Team should be consulted when the risk to Investigators and citizens may be significantly diminished because the TACTICAL Team's training, equipment and/or tactics significantly decrease the ability of the suspect to threaten the safety of Investigators and citizens. Examples of such situations include but are not limited to:
 - a. The suspect's background reveals a propensity towards violence.
 - b. The location will be difficult to enter or secure because of size, location or fortification.
 - c. The location is such that neighborhood or patron sympathy could cause hostilities toward the police.

- B. The Tactical Team supervisor will be responsible for:

1. Ensuring specific tasks are assigned to each officer.
2. Controlling the premises until it is secure.
3. Coordinating with the affiant's supervisor.
4. Ensuring all participants are briefed about the area to be searched, items to be seized and any significant unusual circumstances which may exist involving the premises or its occupants.
5. Accompanying Investigators to the scene.
6. Determining the number of personnel to be deployed, as well as whether other agencies should be used.
7. Making certain all Investigators who participate in the execution of the search warrant are wearing clothing which clearly displays the

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- badge of office on the chest and the Albuquerque Police Department shoulder patch, unless circumstances justify the need to use an approved ruse tactic to affect initial entry.
8. Ensuring rescue and ambulance are on stand-by, at the scene.
 9. Ensure all persons involved in the execution of the warrant to tape record the service of the search warrant. This will include all persons on the entry team as well as all persons on the curtilage. Such recording shall include, at a minimum, the period of time from just prior to entry until after the premises is secured. All tapes will be tagged into evidence in a timely manner.
 10. Ensure police authority and intent shall be clearly announced at the appropriate time. The responsibility for making such announcement is specifically assigned.
 11. Ensure a marked unit is parked on location and ensure the marked unit initiates red lights and begins making announcements over public address simultaneous to the service of the warrant. This section shall not apply to those situations where the scene has been secured prior to obtaining a search warrant.

COMMUNICATIONS RESPONSIBILITIES

- A. AFD and APD Communication Division will be responsible for advising all Communications personnel of the impending service of the warrant as soon as possible but no later than the scheduled start time of the service of the warrant.

Such advisement will include at least the following:

1. Posting written notification in a location clearly visible to all 911 and Dispatch personnel which includes the location, the time, involvement of Tactical Team and any other special information relating to the service of the warrant.
 2. Use of the computer system to send a message to all Communication's consoles.
 3. Vocally advise personnel of the posting of notification of warrants.
- B. Communications personnel will be responsible for regularly checking the posting location to view new information.

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2-17 SEARCH AND SEIZURE WITHOUT A WARRANT

POLICY:

Department policy is to provide investigators with guidelines to conduct warrantless searches and seizures in order to uphold individual civil rights, protect investigators and others, and govern the collection of evidence. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

DEFINITIONS:

REASONABLE SUSPICION

An anonymous tip combined with some form of articulable investigation that leads an investigator to reasonably believe a violation of law has occurred or is occurring.

PROBABLE CAUSE

When facts and circumstances within an investigator's knowledge, or, on which an investigator has reasonable trustworthy information, are sufficient to warrant a reasonable person to believe that an offense has been or is being committed and the person arrested conspired to commit the act.

FIELD INTERVIEW

The brief detainment of an individual who is on foot or in a vehicle, based on reasonable suspicion that a violation of law has occurred or is occurring, for the limited purpose of determining the individual's identity and confirming or dispelling an investigator's suspicions.

PAT DOWN

A "frisk" or feeling of the outer garments of an individual with the sole purpose of detecting a weapon, allowing the investigator to conduct a brief field interview without the threat of violence. An investigator should use extreme caution when patting someone down to ensure that he/she is not stuck by a needle or other sharp object.

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CONSENT

A voluntary statement, verbal or written, giving investigators permission to search a person, premises, or items. Consent may be withdrawn at any time.

EXIGENT CIRCUMSTANCES

An emergency situation(s) requiring swift action to prevent imminent danger to life, serious damage to property, to forestall the imminent escape of a suspect, or the destruction of evidence.

INVENTORY SEARCH

A search conducted on a person or vehicle to protect and safeguard an individual's property, provide for the safety of the investigator and others, as well as protect the Department against claims or lawsuits for loss or destruction of private property.

PROTECTIVE SWEEP

A quick limited search of a premise, incident to an arrest, conducted to protect the safety of investigators and others. The area searched must be large enough to be capable of harboring a person.

CURTILAGE

Any land or building immediately adjacent to a dwelling which is directly connected or in close proximity.

COMMUNITY CARETAKER

An investigator may stop a vehicle or enter a premise without a warrant or reasonable suspicion when the investigator has specific articulable safety concerns, which an individual might be in physical difficulty or need assistance. Such encounters must be done in good faith without the intent of coercion or detention.

RULES AND PROCEDURES:

APPROACH

An investigator may approach an individual without a warrant or reasonable suspicion provided that:

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- A. The investigator is not violating the law at the time;
 - B. The investigator approaches in a non threatening manner;
 - C. The person approached is free to leave or remain silent with no threat of coercion or detention from the investigator.
STOP AND FRISK (TERRY STOP)
- A. A Terry Stop consists of a brief investigative detention, field interview, and, if warranted, a pat-down of a person's outer garments if based on the investigators training and experience, the person detained poses an immediate danger to the safety of investigators or others. Factors to consider when determining whether to perform a Terry Stop should include but not be limited to:
 - 1. The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act;
 - 2. The hour of day or night is inappropriate for the suspect's presence in the area;
 - 3. The suspect's presence in a location is inappropriate;
 - 4. The suspect is carrying a suspicious object;
 - 5. The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon;
 - 6. The suspect is located in proximate place and time to the alleged crime;
 - 7. The investigator has knowledge of the suspect's prior criminal record or involvement in criminal activity.
 - B. A pat down is to be conducted in accordance with the investigator's training and experience and is no more extensive than what is necessary to remove the immediate danger to the investigator(s) and others.

Factors to consider when determining whether a pat down should be conducted:

- 1. The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved;
- 2. When more than one suspect must be handled by a single investigator;
- 3. The hour of the day and the location or neighborhood where the stop takes place;
- 4. Prior knowledge of the suspect's past use of force and/or a propensity to carry a firearm or other weapons;

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5. The appearance and demeanor of the suspect such as nervousness, shaking, failure to make eye contact, or other behaviors which are not cultural;
 6. Visual indications that suggest the suspect is carrying a firearm or other weapon;
 7. The age and gender of the suspect. Whenever possible, pat down searches should be performed by investigators of the same sex.
- C. An investigator may request a voluntary statement, verbal or written, giving the investigator permission to search the person in accordance with this SOP.

ROAD BLOCK

- A. A roadblock should be conducted in a reasonable time, duration and location to protect the safety of investigators and others.
- B. Selection of the site and procedures for conducting a road block are made and established by police supervisory personnel.
- C. A briefing will be conducted prior to each roadblock to ensure that investigators deal with motorists in the same manner as much as possible.
- D. Motorists shall only be detained for a reasonable time.
- E. All roadblocks shall be given appropriate advance publicity.
- F. An emergency roadblock may be put in place for the purpose of capturing a fleeing felon.

VEHICLE INVENTORY SEARCH

When a vehicle is towed pursuant to state law or city ordinance, an inventory search of the vehicle shall be conducted to protect an individual's property, the investigator and others, as well as the Department from claims of lost or damaged property resulting from the seizure of the vehicle or items. Investigators will use the following criteria when an inventory search is conducted:

- A. Vehicles must be in lawful police custody;
- B. Must be reasonable and conducted in good faith;

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- C. Will be conducted by the public, investigators, or public safety aides in accordance with their training and Department standard operating procedures;
- D. Inventory searches will include the entire passenger compartment, glove box, trunk and containers without damaging the property, at or near the time the vehicle was lawfully placed within police custody. Containers found during an inventory search of a vehicle can be opened if accomplished without damage to the container and the search is conducted in accordance with the Department SOP.
- E. The Inventory search will be documented and become part of the original Offense/Incident Report. If towed, an inventory search will be conducted of the vehicle and will be documented on the Tow-in Report form.

VEHICLE SEARCHES UNDER THE “AUTOMOBILE EXCEPTION”

Warrantless search of a vehicle under the “Automobile Exception” requires:

- A. An articulable legal justification for stopping the vehicle;
- B. That there is reasonable basis for believing an automobile will be moved or it’s search will be compromised by delay. Otherwise, a warrant is required prior to searching the vehicle;
- C. Inventory searches must be reasonable and conducted only if there is probable cause to believe the vehicle contains the fruit or instrumentalities of a crime or contraband, and the investigator can articulate exigent circumstances which create an emergency situation requiring swift action to prevent danger to life, escape, or destruction of evidence;
- D. The scope of the inventory search shall be limited to the exigent circumstance that created an emergency situation requiring swift action to prevent danger to life, escape, or destruction of evidence;

Example:

- 1. If the exigent circumstance exists that the vehicle is being used to harbor a felon, you can not search anywhere within the vehicle that a person could not hide, i.e. under the seat, within the glove box, etc.

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- 2. If the exigent circumstance exists that a weapon is within the vehicle which poses an immediate danger to investigators or others, the investigator may remove all persons from the vehicle in accordance with their training and wait for a search warrant prior to searching the vehicle for the weapon.

- E. A police investigator may conduct a plain view inspection of the vehicle to rule out any exigent circumstances or request a voluntary statement (verbal or written) giving the investigator permission to search the vehicle in accordance with the Department SOP.

SEARCH INCIDENT TO LAWFUL ARREST

A warrantless search can be conducted pursuant to a lawful arrest. Such a search must be conducted during or very near the time and place of the arrest and must be limited in scope to:

- A. Searching the arrested person and any containers discovered on his/her person, or within the arrested persons control if the investigator has reason to believe the containers belong to or were used by the arrested person;
- B. Searching the immediate area within the arrestee's control;
- C. Searching the interior of the vehicle excluding the trunk, glove box, or any containers found in the vehicle if a person is removed from a vehicle and placed under arrest. Any containers found on the arrestee can be searched;
- D. Conducting a "protective sweep" of the area adjoining the arrest;
- E. Conducting a sweep of any other area within the premises which investigators reasonably suspect might harbor a person who could endanger them.
- F. An investigator may request a voluntary statement (verbal or written) giving the investigator permission to search the person and the vehicle in accordance with the Department SOP.

OTHER SITUATIONS INVOLVING SEARCH AND SEIZURES

- A. Plain view

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When an investigator observes evidence of a crime or contraband in plain view from a public place such as a sidewalk or a street.

Example:

An investigator walking along a street observes a vehicle and sees a bag of marijuana on the front seat. The investigator may search the vehicle and seize the contraband.

B. Abandonment

A subject who abandons property does not retain an expectation of privacy of that property as long as the abandonment was voluntary and not coerced by an illegal search or seizure.

Example:

When a person sees an investigator and discards a bag of drugs onto the ground.

C. Open fields and curtilage

1. Open fields surrounding a home are not constitutionally protected from a warrantless search or seizure.
2. The curtilage surrounding a home is constitutionally protected from a warrantless search and seizure.
3. Factors to consider when determining whether a specific location is within the curtilage of a residence:
 - a. the proximity of the location to the house;
 - b. whether the same enclosure surrounding the house also encloses the location;
 - c. the uses of the location;
 - d. the steps taken to protect the location from observation by passersby.

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D. Hot Pursuit

The hot pursuit doctrine permits warrantless entries of premises when suspects have fled the investigator. Investigators must have probable cause to believe the person they are pursuing has committed an act of domestic violence or a felony and:

1. The person sought is on the premises they wish to enter; and
2. The person sought will escape or harm someone, or destroy evidence unless a warrantless entry is made.
3. The pursuit must be immediate and continuous from the time of the crime or the time the known felon is spotted in plain view outside the premises.

E. PROTECTIVE SWEEP

A protective sweep can only be conducted after a lawful arrest. An investigator must have a reasonable belief based on specific and articulable facts that lead the investigator to believe the area swept harbors an individual posing a danger to the investigator or others and limits the scope of the search to places large enough to harbor a person.

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2-22 FIREARMS AND AMMUNITION AUTHORIZATION

POLICY:

It is department policy to provide investigators with a duty sidearm, a 12 gauge shotgun, and necessary ammunition for these firearms. Investigators are trained in the proficient use of these weapons and are authorized to carry them on-duty and off-duty as set forth in this section. Investigators will participate in periodic firearms training/qualification to maintain firearms proficiency. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

DEFINITIONS:

UNIFORMED OPERATIONAL ASSIGNMENT

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An assignment to Field Services or Uniformed Investigative Bureau where the investigator is expected to contact the public under potentially confrontational circumstances, i.e. issuing citations, domestic disputes, arrests, etc.

RULES:

AUTHORIZATION AND APPROVAL TO USE FIREARMS (A.S. 1.2.2, 1.3.9)

- A. The APD Range Master shall maintain a list of all authorized firearms and ammunition to be carried while on duty. Only those weapons that are listed may be carried.

Investigators whose duties may require a weapon not on the authorized list must first obtain written authorization from the Captain of the Arson Division prior to carrying another type of weapon.

- B. Investigators must have written authorization for any firearm carried on-duty and must have written authorization for any firearm carried off-duty when acting under color of law.

This subsection is not intended to limit the rights of an investigator to carry firearms off-duty in the same manner as unrestricted citizens, but rather to define the authorization to carry a firearm under the color of law.

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- C. To obtain authorization to carry a department issued firearm, an investigator must successfully complete an APD firearms training program, and meet the firearms qualification standards for law enforcement in the State of New Mexico. Probationary recruit investigators at graduation receive written authorization to carry those firearms issued and used during training.
 - 1. Investigators while on probationary status will carry the department issued firearm. Once leaving probationary status, investigators may be authorized to carry other firearms pursuant to APD section 2-22-3.

- D. To obtain authorization to carry any other firearm, an investigator must complete each of the following requirements:
 - 1. The firearm and ammunition an investigator selects must be on the “Lethal, Less than Lethal and Ammunition List” maintained by the Range Master and approved by the Captain of Arson as well as Fire Chief.
 - 2. The investigator will submit form PD-2430 along with the firearm and 50 rounds of duty ammunition to the Department Armorer.
 - 3. The Department Armorer will submit written findings and recommendations on the firearm.
 - 4. The investigator will demonstrate proficiency with the firearm, and will participate in the live fire course designed for that particular firearm.
 - 5. The investigator will present form PD-2430 for the Fire Chief or Designee's approval to carry the firearm. A copy of the approval will be placed in the investigator's personnel folder.

AUTHORIZED ON-DUTY FIREARMS

- A. Investigators are limited to carrying only weapons and ammunition that appear on the “Lethal, Less than Lethal and Ammunition List” maintained by the Range Master and approved by the Captain of Arson

- B. Investigators are limited to carrying only the department issued 9mm semi-auto pistol while on probationary status.

- C. Authorization to carry any other firearm on-duty will be made for investigators when the nature of their work dictates such; e.g., undercover, administrative, etc., following provisions of APD subsection 2-22-2.

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- D. Secondary on-duty firearms (back-up guns) must also be authorized per APD subsection 2-22-2. Authorization will be granted only for that particular firearm and specified ammunition.
- E. Semi-auto pistol caliber carbines carried on-duty are limited to those that appear on the “Lethal, Less than Lethal and Ammunition” list maintained by the Range Master, approved by the Captain of Arson and Fire Chief. Weapons shall have fixed sights and be equipped with a sling.
1. Investigators may purchase a semi-auto pistol caliber carbine, however, in order to be authorized to carry a semi-auto pistol caliber carbine, investigators must attend pistol caliber carbine training at the firearms range and pass the pistol caliber carbine qualification shoot.
 2. Investigators who have been authorized to carry a pistol caliber carbine must qualify with the weapon in both the day and night qualification shoot, annually. (Ammunition carried will comply with 2-22-6.)
 3. Investigators are also required to obtain authorization to carry the weapon by the Fire Chief or Designee.
- F. Semi-auto .223 caliber urban rifles carried on-duty are limited to those that appear on the “Lethal, Less than Lethal and Ammunition” list maintained by the Range Master, approved by the Captain of Arson. Weapons shall have fixed sights, full length or telescoping stocks, and be equipped with a sling.
1. To be authorized to carry the urban rifle, investigators must attend the urban rifle training at the APD Firearms Range and pass the urban rifle qualification shoot.

Investigators must submit a training request and resume and will be screened for eligibility.
 2. Investigators who are selected to attend urban rifle training must purchase a .223 semi-auto urban rifle that appears on the “Lethal, Less than Lethal and Ammunition” list maintained by the Range Master, approved by the Captain of Arson.
 3. Investigators who have been authorized to carry an urban rifle must qualify with the weapon in both the day and night qualification shoots on an annual basis and shall attend all mandated urban rifle training.

Failure to maintain qualification will result in the loss of the authorization to carry the urban rifle.

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4. Investigators who have received formal training (i.e. SWAT, ROP, and SID investigators) and have qualified with a red dot sighting device on their urban rifle may continue to use the red dot sighting system if the investigator transfers, providing the following has been adhered to:
 - a. Qualify in the DPS day and night qualifications shoots using the red dot-sighting device.
 - b. The investigator must have a “flip up” iron sight mounted on the rifle.
 - The red dot devices are limited to, EO Tech, Holosight, and Aimpoint Comp.
5. Investigators may request to carry an urban rifle, pistol carbine or enhanced shotgun by submitting their name through their chain of command requesting to carry the advanced weapon system.
 - The investigator’s chain of command will forward all applicable information to the APD Range Master.
6. Advanced Weapon System Board
 - a. The APD Range Master will convene a board prior to an upcoming Advanced Weapon System class.
 - b. The Board will review the investigators training records and personnel file to determine eligibility to carry an advanced weapon system and/or optic site.
 - c. The Board will periodically review personnel files to determine if privileges should be terminated or suspended.
 - d. The Professional Standards Division Commander will review all requests and have final decision. This issue is not subject to appeal.
 - e. Investigators approved to carry an advanced weapon system will complete the APD department urban rifle training.
7. Electronic Sights

Investigators in good standing with the urban rifle program may mount electronic sights on their urban rifles with the following restrictions:

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- a. Successfully completed the department urban rifle optics training prior to fielding electronic sights.
 - b. Authorized electronic sights will be limited to mil-spec models of the Aimpoint or EO Tech sights with aiming points no larger than 4 M.O.A. and incorporate no magnification.
 - c. Mounting hardware must be mil-spec and incorporate iron sights that can be co-witnesses through the electronic sight.
8. Investigators found with unauthorized equipment on any firearm will lose their privilege to carry an advanced weapon system. Investigators are also subject to loss of privilege to carry the weapon found in violation of this section.
- I. Use of Lights on Duty Handguns
The use of lights mounted on the duty handgun is authorized when the following conditions are met:
- a. Investigators have attended a four-hour training course conducted by the Advanced Training Unit.
 - b. Department issue handguns may not be altered or modified to accommodate the light.
 - c. The light/handgun combination must be used in conjunction with a holster expressly designed for a light mounted handgun affording the investigator the ability to holster the light/handgun combination one handed.
 - d. The light/handgun combination will be used in those situations where the use of an approved flashlight technique is appropriate.
 - e. Investigators are not absolved the responsibility of possessing a flashlight for general illumination duties even if he/she has a light mounted on his/her handgun.
 - f. The Range Master may disapprove any light/handgun/holster combination on quality or reliability issues.

FIREARMS RESTRICTIONS

- A. No department owned firearm will be subjected to any alteration without the written permission of the Department Armorer.
- B. No trigger shoes will be allowed on any authorized firearm.

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- C. No wallet holsters that prevent the actual gripping of the firearm are permitted.
- D. All authorized firearms will be maintained in a safe and working condition.
- E. Investigators are permitted to carry an authorized firearm while within the city limits of Albuquerque, except as noted below:
 - 1. Investigators may not carry firearms into liquor establishments except when responding to a call, during dinner or coffee breaks, or on other official assignments.
 - 2. Investigators are not authorized to carry a firearm into a liquor establishment when off-duty unless actually responding to a breach of the peace.
- F. Failure to have a firearm will not relieve an investigator of the responsibility to take proper police action in any police matter coming to their attention at any time.
- G. Investigators/Detectives in civilian attire, on or off-duty will not carry an exposed badge or handgun when outside of police department facilities, except when taking law enforcement action. When in public places not operated by the police department, badges and handguns will be concealed by some type of appropriate outer garment, i.e., fanny pack, backpack, briefcase, or suit.
- H. Investigators are limited in the number of on-duty firearms they may qualify with for current use as follows:
 - Two handguns, one rifle or pistol caliber carbine or enhanced shotgun (if qualified), one bean bag shotgun, and one shotgun. Investigators assigned to specialized units may qualify with additional authorized weapons beyond these limitations at the discretion of the APD Department Range Master and Fire Chief or Designee.

CARRYING AND HANDLING OF FIREARMS

Investigators are responsible for the security of all firearms under their control.

- A. Revolvers will be carried uncocked and loaded to capacity.

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- B. Semi-automatics pistols will be carried fully loaded with a round in the chamber.
 - 1. Single action pistols will be carried cocked with safety on.
 - 2. Double action pistols will be carried with the hammer down.
- C. Firearms will be carried in a safe and secure manner. Horseplay as well as flippant and careless behavior is prohibited.
- D. Shotguns will be carried with no round in the chamber, hammer down, safety off. Shotgun magazines will be loaded to capacity.
- E. Shotguns, police carbines, and urban rifles will be kept in a secure area, e.g., trunk, gun lock, except when needed in the performance of duty or as directed by the Firearms Range staff. At no time will an investigator leave any weapon unattended while unsecured. All weapons will be kept secured in the trunk when an investigator is off-duty and the police vehicle is unattended.
- F. Police carbines and urban rifles will be carried with no round in the chamber, hammer down, and safety off. Magazines will be loaded to capacity.
- G. Improper deployment of any advanced weapon, i.e., urban rifle, police carbine, enhanced or semi-auto shotgun may result in the loss of authorized to carry that weapon.

AUTHORIZED AMMUNITION

- A. Only ammunition that appears on the “Lethal, Less than Lethal and Ammunition” list maintained by the Range Master, approved by the Captain of Arson is authorized to be carried.
- B. Each year, during the Second Quarterly Firearms Qualification, investigators will qualify with 50 rounds of that ammunition to be carried on-duty. This will be the only ammunition authorized for on-duty use until the next Second Quarterly Firearms Qualification.
 - 1. During this qualification, the Firearms Range will issue 50 rounds of qualification ammunition plus that amount of ammunition specified in 2-22-6E to those investigators carrying a 9mm pistol or .38 caliber revolver on-duty.

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2. Only that 9mm and .38 caliber ammunition issued by the Firearms Range will be authorized for on-duty use.
 3. Only those investigators who have successfully completed the department advanced shotgun school and pass the advanced shotgun qualification course will be permitted to use shotgun slugs.
 4. Shotgun slugs will only be used with shotguns that are equipped with a rifle or ghost ring sight system, an extended tube and shell carrier, and a sling. (All shotguns must be approved by the firearms rangemaster prior to the start of the advanced shotgun school.)
 5. Those investigators who have successfully completed the department advanced shotgun school and pass the advanced shotgun qualification course will be issued shotgun slugs. These investigators must qualify with their enhanced shotgun both in the day and night qualification shoot, annually, in order to remain authorized to use shotgun slug ammunition.
- C. Those investigators that have completed the advanced shotgun training and are authorized to use shotgun slugs should consider using 00 buckshot at ranges of less than 15 yards unless additional penetration is needed. Slugs should be reserved for; ranges over 15 yards, in situations where a single projectile is needed, or in cases where penetration is desired.
- D. In addition to a fully loaded sidearm, investigators in uniformed operational assignments will carry 12 additional rounds for revolvers and 2 additional full magazines for semi-automatics.

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2-23 INTERVIEWS AND INTERROGATIONS

POLICY:

It is the policy of the Albuquerque Fire Department Arson Division to ensure interview and interrogations are conducted in accordance with New Mexico State law. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

DEFINITION

- Interview Rooms - Any designated room(s) whether located at the Arson Headquarters, a Substation, or any off-site fire facility, that will be used by Law Enforcement personnel to either conduct custodial interviews of arrestees or non-custodial interviews of witnesses, victims or potential suspects.
- Temporary Detention Room - Use of a room designated as a "Temporary Detention Room" for interviews-interrogations will adhere to the policies set forth in APD Procedural Order 2-14-16 (Use of an area for temporary detention).

RULES AND PROCEDURES:

CUSTODIAL INTERVIEWS/INTERROGATIONS

- A. Department personnel will:
1. Electronically record all custodial interrogations in their entirety.
 2. Interrogations conducted in a police facility shall be recorded in a method that includes audio, or video.
 3. Include the advice of constitutional rights on the recording.
 4. Tag the recorded interview into evidence.
 5. Document in the offense/incident or supplemental report that the interview was electronically recorded.
- B. The reason for not recording the interview will be documented in the investigator's report. Exceptions for not recording an interview are listed below:
1. Recording equipment failed and replacement was unavailable.
 2. Statements that are spontaneously volunteered and not the result of custodial interrogations.

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NON-CUSTODIAL INTERVIEWS

When possible, investigators should record any interview of victim or witnesses being questioned in a non-custodial situation. Persons of interest who are or are likely to become a suspect should be recorded in a manner equivalent to those of custodial interviews.

GENERAL SECURITY CONCERNS:

- A. The interview rooms shall be located in secured areas. The use of these rooms is restricted to sworn personnel.
- B. To provide proper security, all arrestees/prisoners shall be searched prior to being brought into the interview room.
- C. The responsibility for the safety and security of persons brought into the interview room remains with the original investigator, unless an investigator or supervisor relieves him.
- D. Only one (1) arrestee/prisoner at a time should be in the interview room.
- E. All arrestees/prisoners will be handcuffed prior to entry of the interview room. Handcuffs may be removed at the discretion of the investigator conducting the interview.
- F. While an investigator is conducting an interview or interrogation, a second investigator should be present either in the room or monitoring via closed circuit TV, one-way glass or by any other visual or audio means. If the interviewer needs assistance, he/she shall verbally and/or physically summon the investigator monitoring the interview, or utilize the "emergency" key or their fire radio.

WEAPONS CONTROL

It will be the sole discretion of the investigator, and in certain cases a supervisor, whether or not he/she maintains their authorized department weapon on their person while in the interview room. Should the investigator elect to remove the weapon, it shall be properly secured.

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INTERVIEW ROOM GENERAL GUIDELINES

- A. Items in the interview rooms should be limited to a table and enough chairs to accommodate the individuals in the room. Any other items brought into the room shall be at the discretion of the investigator conducting the interview.
- B. The number of people present while conducting an interview/interrogation should be kept to a minimum. Typically, this should be no more than two investigators and the person being interviewed. Special circumstances may require a parent, guardian, or legal representative. Ultimately, it will be up to the primary investigator on a case-by-case basis to make up the decision as to who may be present.
- C. All individuals are afforded an opportunity to address their personal needs during an interview/interrogation. It will be at the investigator's discretion when a break will be conducted. All individuals being interviewed who wish to utilize the facilities (restrooms, water, etc.) shall be escorted by an investigator at all times within any secured area of the building.
- D. Prior to usage of the interview room, investigators shall search the room for weapons and/or contraband that may pose a threat to not only the investigator/interviewer, but also the subject being interviewed.
- E. Once the interview has been completed, the investigator will again search the room prior to exiting.

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2-24 PRELIMINARY AND FOLLOW UP CRIMINAL INVESTIGATIONS

POLICY:

Department policy is to investigate misdemeanor and felonious criminal activity. It is the responsibility of both uniformed investigators, and investigators assigned to specialized units to carry out investigations in a thorough, efficient, and timely manner. Department personnel will assure compliance with any and all constitutional requirements during criminal investigations which include guarding against coercion or involuntary confessions and admission, failure to inform defendants of their rights, deprivation of counsel, pretrial publicity, etc. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

DEFINITIONS:

PRELIMINARY INVESTIGATION

The initial stage of any investigation: The preliminary investigation includes gathering of evidence, taking statements, etc. Preliminary investigations are initiated when information is brought to the attention of an investigator by means of a complaint, a dispatch notice, a telephone conversation, a crime stoppers tip, personal observation, or other viable means.

FOLLOW UP INVESTIGATION

A follow up investigation is the continuing and final stages in any investigation, unless the investigation was closed as part of the preliminary investigation. Follow up investigations include written status reports of the investigation, supplemental reports forwarded to the District Attorney's Office, warrant affidavits, etc.

Follow up investigations include those investigations which were not solved or cleared in the initial stage or where such investigations have either been assigned to an investigator within a specialized unit or are being investigated further by the primary investigator.

PRELIMINARY INVESTIGATIONS

- A. AFD Field Services investigators may conduct preliminary investigations on felony and misdemeanor crimes and any other incidents of a suspicious nature if first on scene.

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- B. AFD Field Services investigators will determine the exact nature of the call and either begin a preliminary investigation or call out a specialized unit e.g., Arson, Violent Crimes, Sex Crimes, etc. to assume the investigation.
- C. An investigator will be dispatched by Alarm or called by the officer in charge and will respond to the scene in the following circumstances.
1. Fire deaths and Serious fire Injuries
 2. On all working first alarm structures when requested by the Incident Commander
 3. All 2nd or greater alarm
 4. All explosions and bombings
 5. Any fire that the incident commander deems suspicious in nature
 6. Fires for which the cause cannot be determined by command on the scene.
 7. Vehicle fires incendiary or suspicious in nature
 8. Requested by Albuquerque Police Department to respond to know Arson fires
 9. All Fires coded 69 Delta 1, (High Life Hazard)
 10. All Fires coded 69 Delta 2, (High Rise)
 11. All Fires coded 69 Delta 3, (High Occupancy)
 12. All vehicle fires coded 71 echo, (Vehicle Fires with a trapped victim(s) inside
 13. All outside fires coded 67 echo, (Any outside fires involving a serious burn victim
- D. In the event that a case is assigned to a specialized unit, the primary investigator called to the scene will write the initial offense/incident report. The last sentence of the narrative will indicate the investigator and/or specialized unit the case was assigned to.
- E. Steps to be followed in conducting preliminary investigations:
1. Observe all conditions, events, and remarks.
 2. Locate, identify, and interview witnesses, victims, and suspect(s).
 3. Protect the crime scene and the evidence. Ensure that necessary evidence is collected.
 4. Effect the arrest of the suspect.
 5. Report the incident fully and accurately.

FOLLOW UP INVESTIGATIONS

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- A. Follow up investigations remain assigned to the primary investigator or are re-assigned to specialized units based on the following:
1. Specific guidelines established by department Standard Operating Procedures.
 2. Solvability factors.
 3. Documented agency (or other agency) experience.
 4. Research conducted within the agency or in other law enforcement agencies.
- B. The APD Violent Crimes Section is responsible for conducting follow up investigations on:
1. Violent Crimes Section
 - a. Homicides
 - b. Unexplained Deaths
 - c. Questionable Suicides
 - d. Felony Assault(s); Felony Battery(s)
 - e. Robberies
 - f. Found, actual or suspected, explosive device(s)
 - g. Felony stalking, kidnapping, false imprisonment
 2. Property Crimes Section
 - a. Larcenies
 - b. Burglaries
 - c. Receiving, Concealing Stolen Property
 - d. Embezzlement of property
 - e. In-custody white collar crimes to include Fraud, Forgery, Embezzlement, etc.
- C. Investigative Bureau, Criminal Investigations Division is responsible for conducting follow-up investigations on:
1. Sex Crimes (CSP's, Criminal Sexual Contact)
 2. All motor vehicle thefts and altered VIN.
 3. Property disposed a pawn shops.
 4. All juvenile missing and runaway reports
 5. Audit missing persons reports
 6. White Collar Crimes is in a position to assist with White Collar issues, but maintain discretion on assuming control of a case. White Collar Crimes will assume control of complicated cases and some non-in-custody cases.
 - a. Fraud

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- b. Forgery
 - c. Embezzlement
 - d. Con games
- D. The APD Selected Investigations Division Narcotics are responsible for conducting follow up investigations on in-custody felony narcotics cases generated by AFD Field Services investigators or Fire Investigators providing that the following steps are adhered to. If not, AFD Field Services or Fire Investigators will assume responsibility for follow up investigation and completion. (i.e. Meth labs)
1. The primary Field Services investigator or Fire Investigator will either call out the appropriate (Eastside, Westside, Central Narcotics Section) detective on call or contact the detective by phone by the end of shift and brief him/her on the case.
 2. The primary Field Services investigator or Fire Investigator will indicate on the last line of the narrative of the initial offense report, the detective and unit the case was assigned to (per AFD section 2-24-3 D. of this manual).
 3. The primary Field Services investigator or Fire Investigator will submit a copy of the original offense report and all related documents to the assigned detective by the end of shift.
 4. The primary Field Services investigator or Fire Investigator will submit a copy of the original offense report and all related documents to the District Attorney Liaison Unit (per section 2-14-14 A. 12. of this manual).
- E. Steps to be followed in conducting follow up investigations:
1. Review and analyze all previous reports.
 2. Conduct additional interviews and interrogations, when necessary.
 3. Review departmental I.D. records.
 4. Seek additional information from investigators, informants, etc.
 5. Review results from Criminalistics.
 6. Arrange for dissemination of information as appropriate.
 7. Plan, organize, and conduct searches.
 8. Collect physical evidence.
 9. Identify and apprehend the suspect(s).
 10. Check criminal histories.
 11. Determine involvement of suspects in other crimes.

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12. Prepare cases for court presentations and assist in the prosecutions.
 13. Notify victims of the status of their case.
- F. It is the responsibility of the investigating investigator's immediate supervisor to ensure that a proper and thorough investigation is completed.

2-24-6 USE OF THE U.S. POSTAL SERVICE FOR ADDRESS VERIFICATION

Policy:

It is the policy of the Albuquerque Fire Department to establish guidelines when it becomes necessary to utilize the United States Postal Service (U.S.P.S.) for address verification as part of valid investigations.

A. Authorization

Utilization of the U.S. P.S. for address verification can only be conducted with the authorization of the unit supervisor or designee.

B. Initiation of the Address Verification Process

1. Address verification information will only be released by Post Office personnel upon receipt of the original, signed request on official Fire/Arson Investigation Division letterhead.
2. Address verification can be mailed or hand-delivered to the U.S. Postal Inspection Service. A faxed request can initiate the process only, but the subsection above still applies.(see packet)
3. Investigators may proceed to the Post Office handling the particular Zip Code for the person/address in question to initiate the address verification. Investigators are required to present his/her credentials.

C. Investigators will not:

1. Approach mail carriers to inquire about addresses.
2. Ask to see mail, photocopy mail, open mail, hold mail, or delay the delivery of mail.
3. Ask that information from mail be copied or recorded in any way.

D. Personnel needing to monitor or record mail, or needing information from mail will contact the Postal Inspection Service for information about obtaining mail cover.

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**2-31 INVESTIGATION OF SHOOTINGS AND THE USE OF DEADLY
FORCE INVOLVING DEPARTMENT PERSONNEL**

POLICY:

* Department policy is to follow the Albuquerque Fire Department policy to thoroughly investigate all cases where department personnel are involved in the use of deadly force. This policy does not cover incidents of accidental discharge where no death or injury results or when an animal is shot by an investigator. The on-call "APD Police Shooting Team," (PST), is responsible for coordinating the criminal investigation. They will update in accordance with the Albuquerque Police Department's Policies.

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2-39 SUBMISSION OF CASES TO THE DISTRICT ATTORNEY

POLICY:

* Department policy is to present the District Attorney's Office with a felony case that is complete, legible and contains all the necessary documentation for prosecution. Review of cases submitted to the District Attorney is a requirement and a function of the first line supervisor and Quality Assurance Officer. Cases prepared for the District Attorney will be completed using Department approved formats. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque Police Department policies and procedures. They will update in accordance with the Albuquerque Police Department's Policies.

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2-52 USE OF FORCE (DEADLY FORCE, NON DEADLY FORCE, LESS LETHAL FORCE)

POLICY:

It is the policy of this Department that investigators shall use only that force which is reasonably necessary to protect the sanctity of human life, preserve and protect individual liberties, and to affect lawful objectives. All investigators will act in good faith in the exercise of force. The investigators' options can range from a continuum of verbal persuasion to deadly force. Department policies are to be utilized as a guideline and shall be used in conjunction with Albuquerque fire Department policies and guideline. They will update in accordance with the Albuquerque Police Department's Policies.

DEFINITIONS:

A. NON DEADLY FORCE

Any use of force other than which is considered deadly force.

B. DEADLY FORCE

Any use of force that is likely to cause death or serious physical injury.

C. REASONABLE BELIEF

The facts or circumstances the investigator knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

D. SERIOUS PHYSICAL INJURY

A bodily injury that creates a substantial risk of death; causes serious permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

E. POLICE ACTION

Any offensive or non passive defensive action by an investigator, or some intentional action under his/her immediate control.

F. POLICE ACTION INJURY

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Any injury to a suspect that results from offensive or non passive defensive action by an investigator, or some intentional action under his/her immediate control.

G. LESS LETHAL FORCE

Force that is intended to cause or which is likely to cause bodily harm and in certain circumstances may result in death or great bodily injury.

H. LESS LETHAL MUNITIONS

Munitions designed to incapacitate hostile individuals without causing death or great bodily harm, but that possibility always exists even though the munitions are deployed properly. Department approved less lethal munitions are:

1. Electronic Restraint Device (taser),
2. Bean Bag Rounds,
3. Rubber Pellet Rounds,
4. Foam Projectile Rounds, and
5. Wooden Baton Rounds

I. BODILY HARM

Any physical impairment of the condition of another's body which causes pain or illness.

RULES AND PROCEDURES:

USE OF NON DEADLY FORCE

- A. Where force is warranted, investigators should assess the incident in order to determine which technique or weapon will reasonably de-escalate the incident and bring it under control safely. Investigators shall use only that force which is reasonably necessary to affect lawful objectives.
- B. Investigators are permitted to use those defensive tactics and non deadly weapons with which they are trained, qualified, and certified with, as determined by Department training procedures, for the resolution of incidents.

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- C. Every investigator is expected to consider the use of Departmental approved options, ranging from verbal techniques, hand control procedures, and non-lethal equipment, which includes, but not limited to chemical agents and the baton.
- D. When a confrontation escalates suddenly, an investigator may use any means or device at hand to defend him/herself, as long as the force is reasonable, given the existing circumstances.

USE OF DEADLY FORCE

- A. The authorized weapons that are available to an investigator are intended to be used as defensive instruments to prevent an assailant from completing a potentially deadly act.
 - 1. A firearm is discharged with the primary intent to stop or incapacitate and not to kill or injure.
 - 2. To ensure maximum stopping effectiveness and minimal danger to non-participants, the investigator should shoot at "center body mass" when discharging a firearm.
- B. Investigators are authorized to use deadly force, by any means, in order to:
 - 1. Protect the investigator or others from what is reasonably believed to be an immediate threat of death or serious physical injury;
 - 2. Prevent the escape of one reasonably believed to have committed a felony, but only when:
 - *There is probable cause to believe the suspect poses a immediate threat of death or serious physical injury to the investigator or others.*
 - 3. Disable the tires on vehicle that is being pursued if the elements in 1 & 2 above are met. If the situation permits an opportunity, investigators should obtain supervisor approval prior to disabling the tires.
 - a. Investigators will use only their shotgun or authorized rifle for this purpose. Side-arms will not be used.
 - b. The only target will be the vehicle tires.

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- C. Warning shots are prohibited.
- D. When feasible, some warning should be given prior to engaging in the use of deadly force.
- E. When the ONLY means of an assault on an investigator is by motor vehicle, investigators:
 - 1. Will not fire upon the vehicle, but simply move out of the vehicle's path.
 - 2. Must place themselves in the most tactically safe position possible.
 - 3. Will not purposely place themselves in the path of a fleeing/aggressively driven vehicle to justify the use of deadly force.

OTHER INSTANCES WHEN DISCHARGE OF A FIREARM IS AUTHORIZED

- A. To safely destroy an animal when:
 - 1. The animal represents a threat to public safety;
 - 2. As a humanitarian measure when the animal is seriously injured,
 - 3. Other alternatives have been exhausted, or
 - 4. Requested by animal control.
- B. During range practice or competitive sporting events.
- C. EOD personnel may utilize a firearm to disrupt an improvised (explosive) device.

FIREARMS SAFETY

All weapons, lethal and less lethal, will be carried in a safe and secure manner. Horseplay, flippant handling, and careless behavior is strictly prohibited.

REPORTING USES OF FORCE

- A. In instances where police actions are used which result in death or great bodily harm, the reporting and investigation process will be followed as outlined in section 3-41 of the APD Administrative Orders.
- B. In all other instances where police actions are used which result in an injury; investigators shall document the injury or alleged injury in the report of the

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incident. All investigators who witness such police actions whether directly involved or not, shall document their observation on a supplemental report. A copy will be submitted through their chain of command to their division commander and Internal Affairs within 24 hours of the event.

1. The offense report will include:
 - a. A detailed description of the events leading to the necessity for the use of police action;
 - b. The amount and type of action used;
 - c. The nature and extent of injuries and treatment rendered to the investigators and subjects;
 - d. The identity of combatants, investigators involved, witnesses and medical personnel involved, if applicable, and
 - e. Other pertinent information.
2. If an investigator is unable to write the report, the on duty supervisor will ensure the necessary report is properly prepared and forwarded.

C. Notification of Supervisor

In all instances when deadly force is used or the discharge of a firearm occurs (other than in training, by EOD personnel during a render-safe procedure, or for authorized recreational purposes), investigators shall immediately notify their supervisor or the next available supervisor in the chain of command.

D. Supervisor Responsibility

1. Supervisors will ensure that a written report is submitted in all instances where a firearm is discharged other than in training or for authorized recreation purposes.
2. Supervisors (this will be the investigator's immediate supervisor, if working. If the investigator's immediate supervisor is not working, the on-scene supervisor will complete the APD Use of Force form) will be required to complete the APD Use of Force Report form for all types of force applied to a given incident including:
 - a. hand-to-hand action resulting in injury,
 - b. baton strike,
 - c. canine bite,
 - d. mace,

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- e. ERD (taser),
 - f. less lethal munitions,
 - g. lethal munitions
3. The APD Use of Force Report and a copy of the offense/incident report will:
- a. Be submitted for review to the APD Operations Review Lieutenant within 72 hours after the incident.
 - b. Be distributed by APD Operations Review to the appropriate units, i.e., Internal Affairs, Risk Management, Legal, Tactical Teams, Academy, etc.
 - c. The APD Operations Review Lieutenant will ensure that the Use of Force Report is reviewed by the Department's Legal Advisor prior to forwarding the report to Internal Affairs.

[6] E. Fire Chief or Designee's Responsibility

- 1. Will ensure that supervisors and subordinates conform to policy regarding the use of force.
- 2. Will ensure that copies of all documents concerning ALL USE OF FORCE INCIDENTS are submitted to the Department's Legal Advisor as outlined in subsection "D."
- 3. Will document reportable police action(s) on their subordinate's Personnel file.

F. Reporting Use of Less than Lethal Munitions

- 1. Whenever less than lethal munitions are used, investigators shall initiate an APD Offense/Incident Report to include:
 - a. A detailed description of the events leading to the necessity for the use of lethal/less lethal munitions;
 - b. The nature and extent of any injuries to the suspect;
 - c. The identity of the combatants, investigators, witnesses, and medical personnel involved.
- 2. A copy will be submitted within 24 hours of the incident through their chain of command to their deputy chief or area commander and to the Department's Legal Advisor.

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DEPARTMENT RESPONSE

A. Deadly Force Incident

1. The Department shall conduct both a criminal and an administrative investigation of the incident.
2. Whenever an investigator is a principal participant in a critical incident involving great bodily injury, the investigator shall be placed on administrative leave with pay for three days. The director of the Behavioral Science Division (BSD) may authorize up to seven additional days of administrative leave on Form P-30-V.
 - a. While investigator(s) are on administrative leave, they will make themselves available to Department investigators.
 - b. The investigator's deputy chief or area commander must authorize returning to former duty status. Following a return-to-duty interview with BSD, the investigator will be responsible for arranging his/her return to duty. Should an extension of leave beyond three days become necessary, the investigator will be responsible for having his/her chain of command sign the P-30-V Form and conveying this form to Police Payroll/Personnel.
 - c. It will be the responsibility of the BSD to contact the investigator approximately 30, 90, and 180 days after the incident to ascertain the need for further follow-up.

B. Administrative Review of Use of Force Incidents

1. All reported uses of force will be reviewed by the APD Internal Affairs Unit to determine whether:
 - a. Departmental policies, rules, or procedures were violated;
 - b. the relevant policy was clearly understandable and effective to cover the situation;
 - c. Department training was adequate.
2. All findings of policy violations or training inadequacies shall be reported to the Deputy Chief of Human Resources and or the Fire Chief for resolution and/or discipline.

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C. Less Lethal Incidents

If the use of less lethal munitions results in death or great bodily harm of a suspect, the reporting and investigation process will be followed as outlined in APD Section 3-41, Internal Affairs Unit Responsibility, of the Administrative Orders.

D. In all other instances that do not result in death or great bodily harm to a suspect, the investigation will be handled as any other use of force incident. Appropriate reports will be completed and a APD field investigator will be called to complete the proper crime scene investigation.

E. Rendering Medical Aid Following Use of Deadly or Non-Deadly Force

1. Emergency medical attention will be immediately rendered, consistent with investigator safety, following any police action which results in the injury of any individual. This aid will include but not be limited to:

- a. The investigator administering first aid, and
- b. Requesting of any additional advanced first aid which may be required, i.e. Rescue, Lifeguard I, etc.

2. If the subject complains of an injury or if the investigators suspect injury, the investigator will request rescue at the scene to medically evaluate the subject.

USE OF LESS LETHAL MUNITIONS

A. Deployment of less lethal force options should correspond with the Reactive Control Model (RCM). In order to determine which technique or weapon to reasonably de-escalate the incident and bring it under control safely personnel should:

- 1. Always consider the actions of the subject and the desired outcome when considering force options.
- 2. Use only that force which is reasonably necessary to effect lawful objectives.

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- B. Investigators will only use less lethal force munitions after receiving training in their proper use.
- C. Every effort will be made by investigators deploying the munitions to inform other involved investigators that a less than lethal munitions is being used.
- D. The use of less lethal munitions is authorized against animals that pose a threat to public safety.
- E. In order to keep records of all incidents pertaining to the use of less lethal "Bean Bag" rounds, supervisors will forward copies of all report to the APD Operations Review Section.
 - 1. The APD Operations Review Section will maintain a log of all cases and the respective reports.
 - 2. Any problems encountered with the use of these rounds should be noted on a separate memo attached to the report.
- F. Oleoresin Capsicum (OC) Aerosol Restraint Spray
 - 1. Authorization - Use/Carrying of OC Spray:

In order to use/carry Oleoresin Capsicum (OC) restraint spray, investigators are required to complete an approved course of instruction on its use.

 - a. OC spray is an additional use of force option to gain compliance of resistant or aggressive individual(s) during an arrest and/or other enforcement situation.
 - b. OC spray will be use as warranted, but only in accordance with the Department's guidelines and procedures.
 - c. Investigators whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required to carry OC spray while on duty.
 - d. Non-uniformed investigators may carry OC spray in alternative devices only after receiving written authorization from the Fire Chief or Designee.

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2. Usage Criteria

OC spray shall be deployed in a manner consistent with the Department's use of force policy and training guidelines.

- a. Whenever practical and reasonable, investigators should use their Department issued tape recorder during the events surrounding the deployment of OC spray.
- b. The use of OC spray is no longer authorized once a suspect is compliant and non-combative.
- c. Use of OC spray should be limited, if possible, under conditions where it is not likely to effect innocent bystanders.
- d. Due to the high volume output of the large OC spray canister, its use should be limited to well ventilated areas and at a distance of no less than 10 feet from the combatant.

This will reduce the risk of eye injury to the combatant, and lessen the risk of contaminating investigators, which could render them unable to perform their duties.

3. Investigators Responsibilities

- a. The effects of OC spray vary among individuals. Therefore, after being sprayed, all suspects shall be handcuffed as soon as possible.
- b. Investigators should also be prepared to employ other means to control the suspect, to include, if necessary, other force options consistent with policy.
- c. Suspects who have been sprayed shall not be left alone, and must be continuously monitored for indications of medical problems, which include, but are not limited to:
 - 1) breathing difficulties,
 - 2) profuse sweating, and
 - 3) loss of consciousness
- d. AFD Rescue Personnel will be requested immediately to attend to any medical need.

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- e. Within a reasonable amount of time following the deployment of OC spray, AFD Rescue Personnel will be requested to decontaminate the arrestee.
- f. Air will normally begin reducing the effects of OC spray within several minutes after exposure, however, once the suspect has been physically restrained, investigators may assist them by rinsing the exposed area with clean water.
- g. Assistance, as described above, shall be offered to any individual that feels the effects of OC spray when they have been accidentally exposed. All such incidents shall be reported to the investigator's immediate supervisor and shall be detailed in an incident report.

G. ELECTRONIC RESTRAINT DEVICE (ERD or Taser)

- 1. The ERD is part of the Reactive Control Model (RCM) and will be used as a variable force option.
- 2. ERD use will vary, based upon the situation. It has three different force modes:
 - a. Show Force Mode - Show force option used to gain compliance from a non-responsive subject.
 - b. Drive Stun - Intermediate force option used against a subject who resists or attacks, and
 - c. Standoff Mode - Used against either a subject who resists/attacks, or when discharged.
- 3. Use of the ERD/Taser
 - a. Use of the ERD/Taser in a drive or standoff mode is considered equivalent to oleoresin capsicum (OC) spray on the use-of-force continuum, and decisions to use an ERD involve the same basic justification. As such, it is forbidden to use the device as follows:
 - 1. In a punitive or coercive manner.
 - 2. On a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot reasonably be dealt with in any other less intrusive fashion.
 - 3. On any suspect who does not demonstrate an overt intention (1) to use violence or force against the investigator, another person, or themselves (2) to flee

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in order to resist or avoid arrest (in cases where investigators would pursue on foot).

4. In any environment where an investigator knows that a potentially flammable, volatile, or explosive material is present (including but not limited to OC spray with volatile propellant, gasoline, natural gas, drug lab flammables, or propane).

5. In any environment where the subject's fall could reasonably result in death (such as in water or on an elevated structure).

b. Taser will not be used on subjects who are passively resistant.

4. Authorization

Only investigators who have completed an approved certification course of instruction on the use of the ERD are authorized to carry the device.

5. Holster and Securing

a. Under no circumstances will the Taser be holstered next to a firearm.

b. The Taser will be carried on the support side; also known as the weak side (while on duty).

c. Tasers will be secured in a Department issued or personal holster.

d. Investigators may elect to secure the holster belt hanger adapter to the under belt or to their Sam Brown belt.

e. Holsters may be worn full or part time.

6. Usage Criteria

The ERD is considered a use of force and shall be deployed in a manner consistent with the Department's use of force policy and training guidelines.

a. As in all uses of force, certain individuals may be more susceptible to injury. Investigators should be aware of the greater potential for injury as outlined in ERD training.

b. Upon firing the device, the investigator shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.

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- c. The subject should be secured as soon as practical while disabled by ERD power to minimize the number of deployment cycles. In determining the need for additional energy cycles, investigators should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
 - d. In standoff mode, center mass of the subject's back should be the primary target where reasonably possible; center mass of the chest or the legs are the secondary targets.
 - e. The device may also be used in certain circumstances in a "drive stun" mode. This involves removing or not removing the cartridge, based on the situation, and pressing the unit against an appropriate area of the body based on training. It is important to note that when the device is used in this manner, it is:
 - 1. Primarily a pain compliance tool.
 - 2. Minimally effective compared to conventional stand off cartridge type deployments.
 - 3. More likely to leave marks on the subject's skin.
 - 4. Subject to the same deployment (use) guidelines and restrictions as those of the ERD in cartridge deployments.
7. Post-Deployment of the ERD
- a. AFD Rescue Personnel will be called to the scene and will remove probes if necessary. AFD shall determine (per their protocol) if the person needs to be transported to a medical facility for high-risk/sensitive probe removal and/or other medical care. If it is determined that the person should be transported, transportation shall be provided as soon as possible.
 - b. Supervisors will ensure that an investigator accompanies the person to the medical facility.
 - c. The investigator will request that medical personnel conduct an examination to determine whether the individual has suffered any injury, either directly from the ERD discharge, or indirectly such as falling after incapacitation.
 - d. Photographs will be taken as outlined in APD section 2-12-2 of the Procedural Orders.

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This will include photographs for the deployment of the ERD in a Drive Stun (Contact) Mode.

- e. The deploying investigator shall notify his/her supervisor as soon as practical after using the device.

8. Reporting

- Investigators shall specifically articulate the rationale in their report for any instance in which an ERD is energized.

AUTHORIZED PERSONNEL

The following personnel are authorized to carry Less Lethal Munitions:

- A. Field Services Supervisors and investigators who have been selected and trained (Bean Bag and Rubber Pellet Rounds only).
- B. SWAT team members
- C. K-9 unit members
- D. Other investigators designated by the Chief of Police or Fire Chief.
- E. Investigators trained and authorized to carry less than lethal munitions will be required to carry the less lethal munitions, and have them readily available should the need arise.

SHOTGUN TRAINING/ QUALIFICATION, USE OF FORCE POLICY TRAINING

- A. Lethal/less Lethal Shotguns
 - 1. All shotguns firing less lethal munitions will be dedicated to this purpose. Designated shotguns will be marked on the stock and barrel with yellow duct tape. Once marked, these shotguns will not be loaded with any rounds other than less lethal munitions. The exception will be at the Range during practice or qualifications.
 - 2. All investigators will inspect their designated shotguns prior to each watch. Additionally, when practical, investigators will check the shotgun they are using prior to deploying it.

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3. Investigators wishing to have an additional shotgun that can be used to fire regular 12 gauge shotgun ammunition will gain approval through their deputy chief or area commander.
4. Each investigator will receive training in the proper use and deployment of the less lethal munitions prior to their use.
 - a. Investigators will receive training in the use of 12 gauge "bean bag" and rubber pellet rounds. The bean bag rounds will be carried by each authorized investigator in their shotgun, and will be issued by the APD Firearms Range. Rubber pellet rounds will be kept in the riot kits at the APD substations and will be issued through the APD Metro Section, Tactical Team commander.
 - b. APD Commanders will ensure strict accountability of all munitions. Munitions will only be fired during training or during actual incidents. Unauthorized use of the munitions is forbidden.
5. To show proficiency with the shotgun and to ensure its proper mechanical operation, each investigator will be required to pass the regular shotgun qualification course designated by the Department with the "less lethal shotgun." This will be in addition to the qualification with the regular shotgun.

B. Annual Use of Force Policy Training

The Albuquerque Fire Department's Use of Force Policy will correspond with the Albuquerque Police Department's Use of Force Policy which will be reviewed on an annual basis at one of the bi-annual Firearms qualification shoots.

NOTICE

This directive is for Departmental use only. Violations of this directive will only form the basis for Departmental administrative sanctions.

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INVESTIGATORS DUTIES

POLICY:

The Albuquerque Fire Department's policy is to establish an Investigator's code of conduct for those situations where sworn personnel are required to act in an official capacity or are performing official duties. This code of conduct is oriented toward an approach to train or develop by instruction.

RULES:

CARRYING OF FIREARM, BADGE, AND IDENTIFICATION CARD

Investigators shall carry and use weapons in a careful, prudent manner in accordance with the laws of the State of New Mexico and departmental rules and procedures.

A. On Duty:

Investigators shall carry their firearm, badge, and identification card on their person except when impractical in an investigation or dangerous to their safety. The Investigator must pass the required State of New Mexico Law Enforcement firearms qualification with the on duty weapon prior to carrying the weapon. All firearms qualifications and records are maintained by the Albuquerque Police Department firearms range.

B. Off Duty:

Investigators shall, if armed, carry on their person their badge and official identification card. The Investigator must pass the required State of New Mexico Law Enforcement firearms qualification with the off duty/back up weapon prior to carrying the weapon. All firearms qualifications and records are maintained by the Albuquerque Police Department firearms range.

ENFORCEMENT OF LAWS, ORDINANCES, AND POLICE REGULATIONS

- A.** Investigators shall promptly obey and support all directives and polices established by the Fire Chief.

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- B. Investigators shall familiarize themselves with and have a working knowledge of Laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Investigators:
 - 1. Take appropriate action and render assistance in any instance coming to their attention whether on or off duty.
 - 2. Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.
- C. Investigators shall be equally responsible for the enforcement of laws, ordinances and police regulations.
- D. Use of discretion by sworn personnel during the performance of their law enforcement duties.
 - 1. When sworn employees of this department are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, department policies, department procedures, statutory law, and supervision in making the appropriate decision.
 - 2. In addition, within each situation, the appropriate decision should be the least restrictive that still accomplishes the intent of the law, is in accordance with the department policy, and does not compromise the Investigators' safety.

FURNISHING NAME AND EMPLOYEE NUMBER TO THE PUBLIC

- A. Investigators shall cordially furnish their name and employee number to any Person requesting such information when they are on duty or while acting in an official capacity except:
 - 1. When the withholding of such information is necessary for the performance of police duties.
 - 2. When it is authorized by proper authority.
- C. Investigators shall furnish AFD business cards to victims and/ or witnesses of crimes, unless the Investigator's assignment and good judgment dictates that identity should not be revealed.

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NEGLECT OF DUTY

Investigators shall be responsible for reporting to their immediate supervisor the neglect of duty or disobedience of orders of other department personnel which may come to their attention.

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JUVENILES

POLICY:

Department policy is to endorse and support programs designed to prevent and control juvenile delinquency and to use compassion while properly handling juvenile offenders as required by the New Mexico Children's Code. It is recognized that all components and personnel of the department have a responsibility to participate and support the department's juvenile operations.

DEFINITIONS:

DELINQUENT ACTS

A delinquent act is any act committed by a child which would be designated as a crime under the law if committed by an adult.

CHILDREN IN NEED OF SUPERVISION (CHINS)

- A. Children that are subject to compulsory school attendance and are absent from school without an authorized excuse from more than ten days during a school semester.
- B. Children who have been suspended from school for non-attendance.
- C. Children who are ungovernable, beyond control, and habitually disobey the reasonable and lawful demands of their parents, guardians, or custodian.
- D. Children who have committed an offense not classified as a delinquent act (e.g., violation of curfew, runaway and truancy).

PROCEDURES:

HANDLING OF JUVENILE OFFENDERS

- A. Investigators should use the least forceful alternative available when dealing with juvenile offenders, remaining consistent with preserving public safety, order, and individual liberty.
- B. This department actively works with all other juvenile justice system components in the development of policies and procedures relating to juveniles.
 - a. The juvenile justice components consists of such agencies as the :
 - i. New Mexico Youth Authority, the courts, corrections, probation, and parole, and other components of the criminal justice system, which meet on a daily basis.

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- b. Bernalillo County Juvenile District Attorney's Office.
- c. Department of Human Services
- d. Other social agencies who deal with juveniles.

**JUVENILE STATEMENTS AND INTERVIEWS PER NMSA 1978 CHILDREN'S
CODE 32A-2-14**

- A. The Guidelines of the Children's Code does not prohibit the investigator from interviewing and taking statements from victims or witnesses of any age.
- B. Basic Interrogation Responsibilities
 - a. Investigators will tape record all interrogations of juveniles, if possible.
 - b. Investigators will attempt to contact a parent or legal guardian. If contact is made, no interrogation will be conducted until the parent(s) have an opportunity to speak to their child. Parent(s) need not be present when the interrogation takes place.
 - c. The length of questioning will be conducted over a reasonable period of time with periodic breaks, i.e., meals, drinks, contacting parents or legal guardian if prior contact has not been made, etc.
 - d. To avoid the appearance of intimidation, a minimum number of Investigators, consistent with investigator safety, will conduct all interrogations.
 - e. Investigators interrogating juveniles will provide the juvenile(s) with an explanation of agency and juvenile justice system procedures prior to beginning the interrogation.
- C. Juvenile Suspects 12 Years of Age and Under
 - a. Cannot waive their Constitutional Rights.
 - b. Their statements may not be introduced as evidence against them; therefore, circumstantial evidence or eyewitness statements must be obtained to prove the case.
- D. Juvenile Suspects 13 Through 17 Years of Age
 - a. Can waive their Constitutional Rights.
 - b. In these cases, Investigators will obtain a signed waiver of rights form prior to taking a statement, or investigator will verbally advise the juvenile of their Constitutional Rights.
 - i. It is desirable to have a parent, legal guardian, or legal counsel present prior to taking a formal written statement.

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- E. In determining whether juveniles knowingly, intelligently, and voluntarily waived their Constitutional Rights, the courts consider the following, which Investigators should note in their report. Investigators must consider all these factors when establishing time limits for interrogations.
- a. Age and education of the juvenile.
 - b. Whether the juvenile was in custody.
 - c. The manner in which the juvenile was advised of his/her rights.
 - d. The length and circumstances of questioning.
 - e. The location of questioning.
 - f. The time of day and treatment of the juvenile.
 - g. The mental and physical condition of the juvenile.
 - h. Whether the juvenile had the counsel of an attorney, friend, or relative.

RULES:

JUVENILE ARRESTS

The following methods of arrest shall be used involving juveniles of the ages of 7 through 17. All attempts will be made to notify a parent or legal guardian when an arrest is made or a citation has been issued. The ultimate responsibility of contacting a parent lies with the Juvenile. Detention Center Staff and this is directed in their standard operating procedures manual.

When an Investigator makes a physical arrest of a juvenile, the subject will be transported to the Juvenile Detention Center and booked on the charges.

- A. Prior to leaving the Detention Center the Investigator who will fill out a “Juvenile Arrest Report Affidavit”.
- B. This Affidavit will be turned over to the booking investigator who will notarize the affidavit. The Investigator will receive a copy of the affidavit which will be forwarded with the Investigator’s police report.
- C. An arrest made over the telephone will no longer be authorized.
- D. Investigators making a physical arrest of a juvenile or an Investigator who issues a misdemeanor citation for delinquent or CHINS offenses will complete an offense report before the end of their shift. In a case referred to a specialty unit, the investigator taking case responsibility will assume the report responsibility as well. However, the initial reporting Investigator must complete his/her original report prior to the end of their shift.

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- E. If a juvenile is listed as a suspect in a delinquent or CHINS offense, that report must also be completed before the end of the shift.
- F. The Investigator's immediate supervisor or upgraded supervisor will ensure that the case report and any other pertinent document(s) (i.e., statements, photo arrays, etc.) are faxed or delivered to the Juvenile Detention facility within 24 hours of the incident.

FINGERPRINTS, PHOTOGRAPHS, AND PHYSICAL EVIDENCE

- A. Juveniles age 12 and under shall not be photographed and/or fingerprinted without first obtaining a court order.
- B. Juveniles 13 and over will be photographed and fingerprinted when charged with a felony crime, unless the Identification Records Unit has the juvenile's prints and photograph on file. The arresting Investigator will verify this with the APD Identification Records Unit before leaving the Juvenile Detention Center or releasing the juvenile.
- C. If the APD Identification Records Unit does not have fingerprints or photographs on file of juveniles 13 and over who have been previously arrested on felony charges, these juveniles will be transported to the Juvenile Detention Home for processing.
 - a. If there is a current photograph and fingerprint on file, the Investigator can utilize the telephone to process these juveniles. The Investigator shall follow up on the information received from the Identification Records Unit to verify the information is correct.
- D. Other forms of identification e.g., hair blood, urine, etc. will not be obtained without a court order.

JUVENILE REPORTS

- A. Reports containing information on juveniles listed as offenders, suspects, or witnesses will be labeled "JUVENILE" on the face of the report.
- B. On felony cases where the only offenders are juveniles, a close out supplementary report shall be prepared and submitted when:
 - a. A violent felony is involved such as armed robbery, homicide, criminal sexual penetration, aggravated battery, or any crime where a deadly weapon is used.
 - b. Three or more felonious property crimes are related through a common offender.
 - c. The Investigator's supervisor determines the case is unusually complicated.

JUVENILE ARREST WARRANTS

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- A. The affidavit and warrant forms for juveniles differ from those of adult affidavit and warrants. Forms are available at the APD Crimes Against Children's Unit or the Juvenile Division of the New Mexico District Attorney's Office located at 5100 Second St. NW.
- B. Once an arrest warrant is signed by a district judge, it shall be filed and returned to the court clerk at the Juvenile Justice Center.
 - a. Only a Children's Court Judge or a District Court Judge can issue a juvenile warrant.
- C. Once verification of the warrant has been made, Investigator's shall transport the juvenile(s) to the Juvenile Detention Home to be booked.

JUVENILE MISDEMEANOR OFFENSES AND MISDEMEANOR CITATIONS

- A. Misdemeanor Offenses
 - a. Responding Investigator's shall take an original report, conduct a preliminary investigation, and determine if the juvenile offense would be classified as a misdemeanor if the offender was an adult.
 - b. The Investigator's shall then determine if the victim wishes to prosecute by making a private complaint in Children's Court.
 - i. If a complaint is considered:
 - 1. The Investigator shall obtain a legible hand written statement from the victim. It must include all necessary elements of the offense, and an adequate summary of relevant facts to establish a basis for the complaint.
 - 2. The statement must include that the victim wants to prosecute.
 - 3. The victim's signature should be witnessed by the investigator.
 - 4. The report shall be submitted to Juvenile Probation.
- B. Misdemeanor Citations (Delinquent Acts)
 - a. Before issuing a misdemeanor citation, Investigators shall determine if there is an outstanding warrant or if the juvenile is on probation, by calling the Juvenile Detention Home.
 - b. When juveniles are cited, every attempt should be made to notify the parents. In any case, the offender must sign the citation.
 - i. The Investigator who issues the citation may take the juvenile home and issue the citation there or have the parents travel to the place of occurrence.

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- ii. Juvenile offenders refusing to sign the citation may be booked.
- c. The issuing Investigator shall write a Uniform Incident Report (UIR) whenever a misdemeanor citation is issued.
 - i. The misdemeanor citation will be stapled to the original report and turned into APD records. Records personnel will make the necessary copies and forward them to Juvenile Probation.
 - ii. The juvenile and the parents shall be sent a notice by Juvenile Probation regarding appearance in court.

CUSTODIAL INTERFERENCE

- A. Investigator's shall request APD assistance for all Custodial Interference issues. If APD is experiencing a delayed response due to priority dispatching and call volume, the Investigator will contact the Bernalillo County District Attorney's Office, custodial Interference Unit.
 - a. Investigator Dave Nuckols handles all investigations concerning Custodial Interference cases. Investigator Nucols is available to answer questions during business hours at 841-7143.

CHILDREN IN NEED OF SUPERVISION (CHINS)

- A. Investigators shall request APD assistance for all CHINS issues.
 - a. Investigator's shall take a report and refer parents or guardians complaining of an alleged child in need of supervision to the Juvenile Probation Office for appropriate counseling and services.
 - i. APD Investigators may issue citations for violations of curfew and truancy, but the child shall not be arrested or taken to the Detention Home.
 - ii. When a child is in need of supervision is given a citation, the issuing investigator shall follow APD procedures, but shall not book a child for a FINS act.
- B. The New Mexico Children's Code does not permit Families in Need of Supervision (FINS) to be placed in a facility that also houses persons charged with delinquent acts, unless they are out of state runaways.
 - a. Investigators can detain local and in-state runaways, but they cannot place them into the Juvenile detention Center. Investigators

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encountering such runaways should attempt to notify parents or legal guardians.

- b. If contact cannot be made with parents or legal guardians, Investigators may transport the juvenile runaway, between 0800 to 1700 hours, Monday through Friday, except holidays, to the Juvenile Probation office, at the Juvenile Justice Center (5100 2nd St. NW). If the Juvenile Probation office is closed, group homes such as Amistad, New Day, or Passages should be contacted for possible placement.

JUVENILES REPORTED MISSING/RUNAWAY

- A. The APD Missing Persons Unit and Field Services Bureau share the responsibility for the investigation when the child is 12 years of age or under.
- B. The Investigator initiating the report will submit their report to their supervisor by the end of the shift, along with a copy. The supervisor will be responsible to ensure that the copy of the report is faxed to the APD Missing Persons Unit during the same **shift**. The report should include the following information:
 - a. Child's full name given at birth
 - b. Child's date of birth
 - c. Child's city, county and state of birth
 - d. Biological mother's full maiden name (if known)
 - e. Biological father's full name (if known)
- C. For N.C.I.C. entry, all juvenile missing and runaways will be called into the APD Report Review Unit as soon as all identification information is known i.e., eye color, hair color, height, weight, sex, race, DOB, SSN, scars, marks, or tattoos, clothing description, medications or illnesses, and all other pertinent information relating to the juvenile. Investigators will note in their report the time Report Review was contacted for N.C.I.C. entry and the identity of the Report Review technician to whom the information was given.
- D. If the reported juvenile is not located within 30 days, it will be the responsibility of the APD Juvenile Section to notify the State Registrar at the Bureau of Vital Statistics.
 - a. State Law requires all the above information be included in the report to the State Registrar.
 - b. The Registrar will flag the child's birth certificate record.

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- E. If the juvenile is located, a supplementary report will be written to cancel the juvenile from N.C.I.C.
 - a. The Investigator will call the Report Review Unit to have the juvenile removed from the N.C.I.C. Investigator's will note in their supplemental report the time Report Review was contacted for the cancellation and the identity of the Report Review Technician to whom the information was given.
 - b. A copy of the report will be sent to the APD Juvenile Section who will be responsible for notifying the State Registrar on all cancellations.

- F. The APD Missing Persons Unit will contact the family within 24-hours after receiving the report to determine the status of the runaway and the direction of the investigation.

LOCAL, IN STATE, AND OUT OF STATE RUNAWAYS

- A. Local and In State Runaways
 - a. Investigator's can detain these runaways, but cannot place them in the Juvenile Detention Home.
 - i. The New Mexico Children's Code does not permit Children in Need of Supervision (CHINS) to be placed in a facility that also houses persons charged with delinquent acts, unless they are out of state runaways.
 - b. Investigators encountering such runaway juveniles should attempt to notify parents or legal guardians. APD assistance will be required.
 - c. From 0800-1700 hours, Monday through Friday, except holidays, local or instate runaway juveniles may be taken to the Juvenile Center located at 5100 2nd St. NW.
 - i. If contact cannot be made with parents or legal guardians, and the Juvenile Probation office is closed, group homes such as Amistad, New Day, or Passages should be contacted for possible placement.

- B. Out of State Runaways
 - a. Out of state runaways taken into custody by authority of an out of state law enforcement agency Teletype can be taken to the Juvenile Detention Center.

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- b. Out of state runaways can be detained there for a reasonable period of time until the parent(s) or guardian of the runaway is notified and arrive to take custody or provide transportation for the child.

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REPORTS AND RECORDS

POLICY

The Albuquerque Fire Department's policy is to provide an efficient and reliable reporting system and to report and record significant incident that come to the Department's Fire Investigation Division's attention.

RULES:

REPORTS CONSIDERED PUBLIC RECORDS

The following reports generated by the Fire Investigation Division, including but not limited to supplements and statements are maintained by the Records Section of the Albuquerque Fire Department and the Albuquerque Police Department.

- A. All incident reports/Uniform Incident Report (UIR)
- B. All offense reports that are ordered open to the public by a court of competent authority.
- C. Offense reports where a child had died and the case is awaiting disposition in the criminal justice system.
- D. All offense reports in which the offender(s) are currently in the criminal justice system awaiting disposition (See G. for exception).
- E. Offense reports where the case has resulted in a positive disposition for the state (See G. for exception)
- F. Offense reports that involve a child as a witness or victim of a crime and the case is awaiting disposition in the criminal justice system (See G. for exception).
- G. EXCEPTION to D, E, and F: Cases where a child is the victim of neglect and/or abuse, or in need of supervision (CHINS).

RECORDS WITH LIMITED PUBLIC ACCESS

Records maintained by the Records Section of the Albuquerque Police Department, which have limited public access, are as follows:

- A. Runaway Reports.

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- a. These reports may be released only to the child’s parent(s), legal guardian, or their legal representative.
- B. Reports involving a child who is neglected, abused, or in need of supervision (CHINS).
 - a. These reports may be released only to the child, the child’s legal representative, the parent(s), the child’s legal guardian, or their legal representative, and the Human Services Department, Social Services Division; the victim(s), and/or the victim’s legal representative.

RECORDS CLOSED TO PUBLIC ACCESS

Records maintained by the Records Section of the Albuquerque Police Department, which are considered closed to the public, are as follows:

- A. All offense reports that result in a negative disposition such as “not guilty”, “dismissed”, “case not prosecuted”, etc. This includes multiple offender cases where at least one offender receives a negative disposition.
- B. All children’s cases where a child is listed as the subject of neglect, abuse, or in need of supervision (CHINS).
- C. All reports or records closed to the public by court order.
- D. All medical, psychiatric, or psychological reports.
- E. Law enforcement records that reveal confidential sources, methods, information, or individuals accused by not charged with a crime.
- F. Law enforcement records that include evidence in any form received or complied in connection with any criminal investigation or prosecution by any law enforcement or prosecuting agency, including inactive/closed cases to the extent that they contain the information listed above.

ACCESS TO RECORDS BY OTHER AGENCIES

Records maintained by the Albuquerque Fire Department and the Albuquerque Police Department shall be provided, when requested by law enforcement agencies, criminal justice agencies or their representatives, or other lawfully authorized agencies.

RELEASE OF ARREST RECORD INFORMATION

Arrest record information may be released to employees of federal, state or local criminal justice agencies and to the person named in the record or to a person designated by him on the APD form PD 4139-B, or a facsimile thereof.

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PERSONNEL OF THE ALBUQUERQUE FIRE DEPARTMENT/FIRE INVESTIGATION DIVISION WILL WRITE REPORTS ON

- A. All felonies, misdemeanors, petty misdemeanors, and any incident or warrant service resulting in an arrest.
- B. Fire related suicides or attempted suicides, and death calls.
- C. Any incident that is of great importance where the Investigator is at the scene, at the scene of crime, or any incident where a citizen/victim request a report. If the scene is not fire related and APD is on scene, refer the reporting party to APD for the writing of the report.
- D. When directed to do so by a superior officer.
- E. All child abuse or neglect incidents.
- F. All domestic violence incidents. Investigator will contact APD for assistance.
- G. All incidents involving abortion clinics and/or incidents involving any person involved in abortion services. A copy of the report shall be forwarded to the APD Criminal Intelligence Unit for analysis and coordinated with federal agencies.
- H. When personnel:
 - a. Discharge a firearm, other than training, recreation, and/ or the destruction of an animal.
 - b. Takes an action that results in or is alleged to have resulted in injury or death of another person.
 - c. Applies force through the use of lethal or less-lethal weapons; or
 - d. Applies weaponless physical force at a level as defined by the agency.
- I. When evidence is collected detailing the circumstances by which the property came into the agency's possession and describing each item of property obtained.

REVIEW AND REJECTION OF REPORTS

Reports will be reviewed by a supervisor before being submitted to the APD Report Review Unit. In cases where a report is illegible, or fails to provide adequate information, Report Review will reject the report and return it to the supervisor for corrections.

- A. All reports received by a supervisor will be logged on a Fire Investigation/Arson Case Review Log, signed and dated by the supervisor. The supervisor will indicate on the log when it is a supplemental report, re-submitted report, or any other special notations.
- B. Police reports (UIR) submitted to the APD Report Review Unit will be logged in and initialed by the Investigator at the time of submittal.

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TIMELINESS OF REPORTS

All initial police reports must be submitted within 48 hours of assignment of an APD case number or at the direction of a supervisor.

- A. Only original police reports (UIR) will be turned into Records for processing.
- B. Copies of incident reports (UIR) and other documents generated outside the Department, e.g., hospital records, bank records, etc., intended to be a part of a case file will be maintained in the Fire Investigations/Arson master file.

ALTERATION OF ORIGINAL REPORTS

Original offense reports/incident reports (UIR) cannot be altered after their acceptance by APD Report Review. Changes and /or correction must be made by a supplemental report.

ARREST INFORMATION VIA TELEPHONE

Telephone inquiries for arrest information will be honored only when the Department employee clearly recognizes the party calling to be a person authorized to receive arrest record information, if any doubts arise, the calling party will be transferred to a supervisor before information is released.

REPORTS OF ALLEGED OFFICER MISCONDUCT IN THE LINE OF DUTY

Department personnel will not write a police report of alleged Investigator misconduct in the line of duty either by citizen request or of their own initiative. Personnel will follow the proper policy/procedure in the Albuquerque Fire Department Standard Operating Guidelines, Personnel Rules and Regulations. If a criminal case is required and authorized by the Deputy Chief of Human Resources, or the Fire Chief, a report will be initiated by APD or another outside police agency.

FELONY CASE PREPARATION GUIDELINES

All personnel responsible for submitting completed cases will refer to the felony case preparation guidelines for the District Attorney.

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HANDLING OF CITATIONS

Upon receiving all citations at the end of shift, supervisors will:

- A. Review the citations to ensure they are filled out correctly, utilizing appropriate State Statutes and/or City Ordinances numbers and that they are printed legibly.
- B. After review, supervisors will separate the citations and attach them together by rubberband or paperclips in the following groups:
 - a. Penalty Assessment/Warning
 - b. Parking Citations (Fire Lane), including voids
 - c. Misdemeanor Citations
 - i. For non fire related misdemeanor offenses, contact APD for assistance.
 - d. Misdemeanor Citations will be stapled to an original offense report (UIR)
 - e. Voided misdemeanor Citations.
 - f. The “Issuing Agency” copy of the citation will be detached and kept by the Office of Fire Investigations/Arson or Fire Marshal’s Office for six (6) months.
 - g. Voided misdemeanor citations will be sent to The Fire Marshal’s Office.

C. Mail Run

Investigators or whoever conducts the mail run, will deliver the citations to the mail drop boxes on the first floor of the Law Enforcement Center, by Report Review, and place the appropriate citations in their respective boxes.

The only portions of the citations that are placed in the boxes are the original (court copy) and the abstract copy.

D. Issuance of Citation Books

Supervisors will ensure that Investigators sign out for citation books by utilizing the logs provided at APD substations or logs maintained by the Fire Marshal’s Office.

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RIGHTS OF ONLOOKERS

POLICY

It is the policy of this department to establish policies regarding when persons are permitted to remain as onlookers, their right to overhear conversations between the Investigator and suspect, and their right to act as a witness.

RULES:

WITNESSING STOPS, DETENTIONS, ARRESTS

Person that are not involved in an incident may be allowed to remain in the immediate vicinity to witness stops, detentions and arrests of suspects occurring in public areas, except under the following circumstances:

- A. When the safety of the Investigator or the suspect is jeopardized.
- B. When persons interfere or violate law.
- C. When persons threaten by words or actions, or attempt to incite others to violate the law.

OVERHEARING CONVERSTATION

If the conditions at the scene are peaceful and sufficiently quiet, and the investigator has stabilized the situation, persons shall be allowed to approach close enough to overhear the conversation between the suspect and the investigator, except when:

- A. The suspect objects to persons overhearing the conversation.
- B. There is a specific and articulable need for confidential conversation for the purpose of police interrogation.

INQUIRIES

- A. Persons shall be permitted to make a short, direct inquiry as to the suspect's name and whether for the Investigator or the suspect wishes a witness. The suspect shall be allowed to respond to the inquiry.
- B. If a citizen is a witness to the activity for which the suspect was detained or arrested, the Investigator may request his/her name; however, the citizen is not compelled to disclose such information.

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BYSTANDER FILMING OF INVESTIGATOR-SUSPECT CONTACTS

It is increasingly common for bystanders, who are not involved in any criminal activity, to record contacts between investigators and citizens, during which investigators are detaining, citing, or arresting a suspect or engaging in crowd control at a demonstration. Bystanders have the right to record, or other means (except under certain narrow circumstances previously set forth in this section).

- A. An Investigator shall not seize, compel or otherwise coerce production of these bystander recordings by any means without first obtaining a warrant. Without a warrant, an Investigator may only request, in a non-coercive manner, that a bystander voluntarily provide the film or other recording.
- B. These requests should be made only if the Investigator has probable cause to believe that a recording has captured evidence of a crime and that the evidence will be important to prosecution of that crime.
- C. If a bystander refuses to voluntarily provide the recording, an Investigator may request the person's identity as provided previously (Inquiries B).
- D. If a bystander voluntarily provides his or her recording and/or equipment, the Investigator shall provide the bystander with a written receipt. The receipt shall contain a written statement verifying that the recording and/or equipment has been voluntarily provided to the Fire Department and shall be signed by the bystander and Investigator.

VIOLATIONS/COMPLIANCE

As an alternative to arresting an onlooker who is in violation of City Ordinance Section 12-2-19 or other related offenses (State Statue 30-22-1) Investigator's may order onlookers to "move on"; however, the person shall not be ordered to move any farther distance than is necessary to end a violation. Persons who believe that an investigator did not comply with the provisions of this order shall be referred to an appropriate supervisor.



INCIDENT # _____

TIME OUT: _____

ALBUQUERQUE FIRE DEPARTMENT RELEASE OF FIREGROUND PROPERTY

This document serves as a release of the property located at _____
within the City of Albuquerque, New Mexico which was involved in a _____
_____ type of incident. The Fire Department has concluded emergency
operations at the above location and is releasing the control of the above- referenced property to you as an authorized
owner/manager/agent of the above property.

I hereby waive, release and discharge for myself, my principal(s), heirs, and successors in interest, any and all rights,
claims, and causes of action at law or in equity which I have or which may hereafter accrue to me against the City, or
any of its officers, agents, independent contractors, employees for any and all damages I sustain which are directly or
indirectly caused by the Albuquerque Fire Department's emergency operating at the above-referenced property. I and my
heirs, principal(s), and successors in interest hereby agree to indemnify and hold the City harmless from any and all claims
and causes of action at law or in equity which any individual(s) may bring against the City for any and all damages which
he/she/they directly or indirectly sustain at the above-referenced property after having been released by the Albuquerque
Fire Department to me.

I hereby understand and agree that the Albuquerque Fire Department will not be responsible for any act of vandalism,
theft or injury that might occur at the above property after departure of our units. I further understand and agree that I
must take reasonable measures to prevent further injury, damage, trespass, vandalism, theft or burglary. I understand and
agree that resources such as shoring and construction materials, guards and barricades are my responsibility.

PROPERTY REPRESENTATIVE:

DATE: _____

TITLE: _____

A.F.D. OFFICER:

TITLE: _____

TIME: _____

WITNESS:

DATE _____