

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS*

Effective: 10/20/2011/ Replaces: 5/31/2011

2-14 ARRESTS, ARREST WARRANTS, AND BOOKING PROCEDURES

POLICY:

Department policy is to arrest felony and misdemeanor violators of laws which its officers are empowered to enforce and to follow correct legal procedures required in arresting, booking, and filing charges against such violators.

RULES AND PROCEDURES:

2-14-1 FELONY ARREST AUTHORITY

- [5] 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 officer 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.

2-14-2 PETTY MISDEMEANOR/MISDEMEANOR ARREST AUTHORITY

[5]

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 officer's personal observation of the offense.
- C. As the result of petty misdemeanor traffic investigations involving accidents.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- D. For petty misdemeanor shoplifting offenses.
- E. 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.
- F. 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.

2-14-3
[6] **ARRESTS-GENERAL**

- A. An offense report indicating all charges and detailing the circumstances will be written by the arresting officer for any incident or warrant service resulting in an arrest or protective custody.
- [6] B. Arresting officers 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 officer 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.

2-14-4
[6] *** 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 officer shall:
 - 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 officer shall be responsible for the safety of the postal vehicle/armored car and its contents.

- [7] B. Whenever active duty military personnel are arrested and placed into custody for any offense, excluding minor traffic charges, the arresting officer shall notify the Kirtland Air Force Base Security Police Desk and advise them of the arrest.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

C. Undocumented Foreign Nationals (Undocumented Immigrants)

1. The enforcement of immigration laws and the arrest of undocumented foreign nationals resides exclusively with the federal government.-
2. Officers shall not stop, question, detain or arrest any person solely on the ground that they may be undocumented and deportable foreign nationals.
3. Officers 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. Officers 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. Officers shall obtain supervisor approval before contacting federal immigration officials; and
 - b. Officers shall document the investigation in an offense/incident report.
5. Officers do not have the authority to place an "ICE" hold on individuals suspected of having violated federal immigration laws.
6. Officers shall not request assistance in language translation from any immigration official or agency.
7. Officers 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. Officers 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. Officers are also prohibited from assisting others, including school personnel or other law enforcement officers or agencies, in detaining or questioning minor children on any immigration-related matter.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

9. Nothing in this SOP shall prevent an officer from investigating any city, state or federal non-immigration criminal violation or taking any action necessary for officer safety.

[6] D. Arrest of Legal Foreign Nationals (Legal Immigrants)

Whenever a legal foreign national is arrested, officers will:

1. Immediately advise the foreign national of his right to have his government notified concerning the arrest and/or detention.
2. The arresting officer will notify the foreign national's consulate of the arrest if the notification is mandated under the U.S. State Department guidelines. The guidelines can be obtained at the following website: www.consularnotification.com

[5] *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.
2. Foreign diplomats will be dealt with on an individual basis.
3. They shall not be placed under arrest.
4. It is the officers responsibility to ensure that the respective foreign consulate has been contacted. See subsection D 2 above for contact information.

2-14-5
[N/A] 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:

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- 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 officer or supervisor as to the identity or location of the fugitive, or the validity of the warrant.

[7] C. If a discrepancy or contradiction exists in the description of the wanted person, officers will advise their immediate or on-duty supervisor. 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 officer will not pick up the arrest warrant at the time. The arresting officer 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.

E. The protocol for serving an arrest warrant shall follow the requirements of serving a search warrant which include (SOP section 2-16):

1. A Supervisor shall be present at the scene on all search warrants involving a dwelling or occupied structure and the supervisor is thoroughly briefed before the search warrant is executed.
2. Tape recorders/digital recorders will be used from the start of a search warrant until the area is secured (as outlined in subsection 01-39-1A).

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

3. All arrest warrants will include an offender history check for violent, special needs, or mental illness history.
4. For high risk or warrant services on individuals with special needs, to include individuals living with mental illness, consideration shall be taken to employ specialized units such as the tactical or CIT units.
5. All arrest warrant services shall include less than lethal options.

F. This SOP does not limit an officer from executing an arrest warrant without a supervisor present when the wanted person comes into contact with a police officer in the normal course of duty, e.g., a traffic stop where the occupant of the vehicle has a warrant out for his/her arrest.

5-14-1
[N/A] 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.

5-14-2
[N/A] 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.
- 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.

5-14-3
[N/A] 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

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS*

Effective: 10/20/2011/ Replaces: 5/31/2011

that a "true bill" has been returned by the grand jury does not constitute grounds for a valid arrest.

5-14-4
[6] 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 officer shall advise the N.C.I.C./A.C.T.I.O.N. operator when the suspect is in custody.

[5] B. The search of a premises 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 officers 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, a supervisor will be notified to respond to the area, and a search warrant obtained before proceeding with the search for a wanted person. Supervisor presence shall be mandatory with all warrant services.

2. An officer 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.

C. Officers 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.

5-14-5 BOOKING ON THE BASIS OF A WARRANT ISSUED FROM BERNALILLO COUNTY

[7] After confirming the existence of a valid warrant through N.C.I.C., officers 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.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- 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. Officers will obtain a copy of the warrant (FAX) from the booking officer and submit it with the offense/incident report.

5-14-6
[7]

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

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

5-14-7
[N/A]

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

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

the Albuquerque Police Department Fugitive Detail will advise them regarding extradition.

5-14-8
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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 officer'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.
 - 5. The supervisor will ensure that the prisoner is released.
- C. The arresting officer will receive a copy of the Release Order and the Nolle Prosequi. The officer 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.

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS*

Effective: 10/20/2011/ Replaces: 5/31/2011

3. The on-duty watch commander or supervisor will have the arresting officer, if available, or another officer 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 Officer by the end of the shift.

F. At no time will a prisoner be released "Pending Further Investigation."

5-14-9 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.

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 officer 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

- [6]
1. Adult offenders arrested by department officers 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 A.W.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. Officers will not request booking personnel make copies of any paperwork other than warrant(s) that have been faxed to booking for the officer.
 6. Officers shall not go behind the booking counter for any reason other than to use the rest room.
 7. 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

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

[N/A]

- may be tagged into evidence as safekeeping in accordance with Procedural Orders 2-08-12 D.6.
5. Officers will complete a pre-booking worksheet(s) prior to arriving at the detention center unless circumstances preclude this. Officers 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 officer 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 officer will determine the charges and count level on all arrests in accordance with department guidelines, state statutes, and municipal ordinances. The arresting officer 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 officer 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.

[6]

9. Officers 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 officers into the facility.
10. A thorough search of the prisoner will be conducted at the Booking Desk by the arresting officer, or the transporting officer. In the event the prisoner is a female, the search will be conducted by a female officer, 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.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

13. Report Distribution – Court Services Section

- a. Officers 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
- b. Officers 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 Officer, 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 officer 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 officer's responsibility to notify

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

Court Services of the delay. If the officer attempts to FAX the report and is unable to complete the transmission due to mechanical problem, the officer 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 officer(s) will be documented on the Offense and Incident Report Form.
- 15. Officers will notify R&D personnel if their prisoner(s) are a potential medical and/or security hazard.
- 16. Officers 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 officer 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 officer 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;

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- 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.
 - h. was arrested for domestic violence, or DWI, therefore are not eligible for processing and identification under this section.
- 4. Other reasons supporting continued incarceration of a non-violent felony offender must be approved by a police supervisor and an attorney with the prosecuting agency.
- 5. Forms procedure:
 - a. The arresting officer shall complete a "Processing and Identification" Form (PD Form 3089).
 - 1) The arresting officer shall obtain approval from his/her supervisor prior to submitting the "Processing and Identification" Form, (PD Form 3089) to the Corrections Department.
 - 2) The supervisor shall sign the form as evidence of review and approval.
 - b. The officer will then present the form to corrections personnel for completion of the corrections portion.
 - c. A signed copy of the form will then be submitted to records by the officer as part of his/her initial offense report.
 - d. The second copy of the form will be maintained by corrections personnel.
 - e. The third copy of the form will be forwarded to the DAL Unit for purposes of tracking open, pending cases.
- 6. A criminal complaint shall not be prepared when an offender is processed under this section. However, probable cause must exist for the initial arrest of the offender and must be articulated in the initial offense report. Language used to establish probable cause shall contain specific details of the incident, not just statutory language of the criminal charges.
- 7. The provisions of subsections 2-14-14 B, (4), (5) and (6) concerning entry and search requirements at the Metropolitan Detention Center shall apply to this section.
- 8. The offender will be released to a corrections officer under this section for purposes of obtaining:
 - a. photographs

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- b. fingerprints
- 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. Officers are cautioned from using the promise of release to obtain confessions or incriminating evidence. Whenever possible, officers will tape record conversations with suspects concerning release. Officers 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 officer 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 officer.
- 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 officer's signature (complainant),
 - b. Title and man number,
 - c. Agency, and
 - d. APD CAD incident number.
- 4. Officers shall complete the criminal complaint form, including the officer'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 officer 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 forms may be used and the officer 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 officer will sign the complaint form before the offender is booked. A supervisor will sign the complaint form in addition to

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- the arresting officer if there are felony charges and/or misdemeanor charges. Telephonic approval is acceptable.
8. The charging officer 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 officer 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.

2-14-15 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

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

Assistant District Attorney in charge of the case, if the analysis is needed for prosecution.

- B. Officers 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 Officer 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.

2-14-16
[4]

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 and 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 Officer In Charge (OIC) of the detainee will obtain authorization from a supervisor to place a prisoner in temporary detention.
3. The OIC Responsibilities:
 - 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).

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- 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.
 - 8) The OIC will document movement of the detainee in and out of the temporary detention area such as bathroom breaks, interviews or meals provided, on the Temporary Detention Log, documenting reason, date and time of movement of detainee.
- 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 prisoner through the nearest exit.
 - 3) Ensure a fire extinguisher is in close proximity to the area of temporary detention.
 - 4) The Accreditation and Inspections Unit will conduct an administrative review of the Temporary Detention Rooms once every three years.
- 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.
 - 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. .
- 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, a supervisor must be notified of the detainee's continued detention and the detainee must continue to be monitored every 30 minutes by the OIC or designee to

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

ensure the safety of the 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. Prior to entering the temporary detention area, the OIC or designee will remove their firearm and properly secure the firearm in the lockbox located outside the temporary detention area.
- b. If resources allow, a second officer should be present to guard the OIC or designee while the officer secures their firearm.
- c. Officers who interview, handle, or who are in close proximity to prisoners will observe all officer safety rules regarding firearms security.

2-14-16 4
cont'd

- d. 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.
- e. 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.
- f. In the event of an emergency, officers 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. Officers shall be re-trained at least once every three years on the proper utilization of the temporary detention of a prisoner.

- 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.
- E. When a prisoner is placed in an area specifically designed for processing, such as for the administering a breath test, using the computer to complete a Criminal Complaint or using the OIM for tagging evidence, the following procedures will be adhered to:

- 1. All prisoners will be searched in accordance with Department SOP Procedural Orders, Section 2-19-4.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

2. Remove all items (evidence/personal property) from the prisoner and place them in a secure area during the period of time they are in the Processing Room.
3. Any property of evidentiary value will be handled in accordance with Department SOP Procedural Orders, Section 2-08. Any personal property removed from the prisoner will accompany him/her to booking.
4. All prisoners will be monitored at all times while in the Processing Room.
5. Prisoners will be secured (handcuffed) to the apparatus, specifically designed for this purpose in such a manner that maximizes the comfort of the prisoner except when the situation requires the prisoner needs to be away from the apparatus such as for taking the breath test or while being photographed. Prisoners will be handcuffed at all times.
6. Officers will have their handheld radios with them while in the Processing Room in the event they need to call for assistance.
7. Officers are responsible to check the surrounding area when removing prisoners from the Processing Room to ensure no evidence and/or personal property are left in the Processing Room.
8. Officers who are in close proximity to prisoners will observe all officer safety rules regarding firearms security.

2-14-17
[6]

PHOTOGRAPHS OF OFFICERS AND SUSPECTS/PRISONERS

- A. Photographs will be taken of all persons, the officer, suspect, and arrested person(s) involved in a incident where:
 1. An officer, 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 Officer and/or Aggravated Battery on a Police Officer.
 4. Persons have pre-existing injuries. Officers will document these injuries on the Offense and Incident Report Form.
- B. It is the responsibility of the arresting/reporting officer to ensure that a Sergeant or Field Investigator responds to the scene to assume the responsibility for taking photographs.
- C. Photographs Taken By the Sergeant
 1. The Sergeant will take photographs if the injuries are minor and the person is not transported to the hospital for medical treatment.
 2. The Sergeant is responsible for submitting the exposed film to

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- Criminalistics for processing, or the appropriate substation drop box, and for completing any accompanying logs.
3. The 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 Field Investigator.

1. If the injuries to the officer or individual require medical treatment, the Field Investigator will take the photographs at the hospital.
2. The 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.

3. The 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.

2-14-18 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 officer will comply with the request within three days or the next available work-day.

2-14-19 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 officer 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).

2-14-20 ISSUANCE OF CRIMINAL SUMMONS IN LIEU OF ARREST WARRANT

- A. A Criminal Summons Complaint can be filed for misdemeanor charges only.

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

- 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 officer 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 officer's shift. (This does not include domestic violence offenders. Refer to section 2-11-4, Procedural Orders)
- 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 officer 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 officer information:
 - a. Signature of the submitting officer,
 - 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 officer for correction(s).

ALBUQUERQUE POLICE DEPARTMENT
*** PROCEDURAL ORDERS***

Effective: 10/20/2011/ Replaces: 5/31/2011

3. If the Summons Complaint is returned to the submitting due to an incorrect address, the Complaint will be dismissed.
4. The submitting officer must correct the Summons Complaint and forward it to the DAL Unit within three days of receipt.
5. If the officer is unable to locate the correct identifiers or a current address for the defendant, the officer will write a supplemental report documenting these reasons.

G. Filing the Criminal Summons Complaint

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.