

ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

Effective: 02/03/95
99-POCS

2-30 INVESTIGATION OF POLICE PERSONNEL

POLICY:

Department policy is to investigate all criminal cases involving police personnel. Such investigations are important for the maintenance of professional conduct in a law enforcement agency. The integrity of the department depends on the personal integrity of personnel. The public image of the agency is determined by the quality of the criminal investigation.

RULES:

2-30-1 **CRIMINAL INVESTIGATIONS INVOLVING SWORN LAW ENFORCEMENT PERSONNEL**

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- A. If the accused is a suspect or the focus of a criminal investigation, the criminal investigation shall be handled by the appropriate agency or department entity.
 - 1. The Internal Affairs Unit will be notified immediately by the on-scene supervisor and will have sole responsibility for the administrative investigation only.
 - 2. The Internal Affairs Unit will act as liaison between any prosecutors office and the department in any investigation involving criminal misconduct on the part of department personnel.

- B. The criminal investigation must be completed before any administrative questioning or investigation is initiated. The criminal investigation will take precedence over the administrative investigation. Initiating an administrative investigation prior to the completion of a criminal investigation is authorized only when it will not interfere with the criminal investigation.

- C. The on-scene supervisor will ensure that misconduct of A.P.D. personnel, which is not of a criminal nature, is documented and prepared separately from any police reports. All administrative investigative documentation will be forwarded to the Internal Affairs Unit, by 0800 hours the following day.

- D. If suspects have been booked on the appropriate charges, the arresting officer's commanding officer will ensure that the proper documentation has reached the appropriate deputy chief's office by 0800 hours the following day.
 - The appropriate deputy chief/director/area commander will be notified immediately by the on-scene supervisor, who will then notify the Chief of Police.

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cont'd E. This procedure applies to all law enforcement officers. If officers from departments other than the Albuquerque Police Department are involved, the agency head will be contacted after the suspect has been booked on the appropriate charges. The A.P.D. Internal Affairs Unit will not be called for officers outside of the Albuquerque Police Department.

2-30-2 **FELONY CRIMES INVOLVING LAW ENFORCEMENT OFFICERS OR NON SWORN PERSONNEL**

[5] If personnel from any law enforcement agency are suspected of having committed a felony crime, the dispatched officer will immediately request a supervisor, who will assume responsibility for the investigation.

A. The supervisor will attempt to establish probable cause to make the arrest using the same discretion and standards used when dealing with any other citizen. 2-30-2

B. If probable cause is established that a felony has been committed, arrest will be made by the investigating supervisor, following procedures as outlined in section 2-14 of the Procedural Manual.

1. If arrest is appropriate, suspects will be booked. The arresting supervisor will ensure that sworn suspects, for their safety, are segregated from other prisoners, after the booking process.

2. Where arrest is not appropriate, the chain of command will be notified prior to release of the suspect and this will be documented in the report.

C. A completed criminal case will be submitted to the District Attorney's Office.

2-30-3 **MISDEMEANOR CRIMES INVOLVING LAW ENFORCEMENT OFFICERS OR NON- SWORN PERSONNEL**

[5] If personnel from any law enforcement agency are suspected of having committed a misdemeanor crime, the investigating officer will initiate the investigation. A supervisor will be contacted to review the determination of probable cause. If probable cause exists, the supervisor will assume overall responsibility for the investigation, and ensure that the suspect is processed the same as any other citizen.

A. Enforcement action of misdemeanor laws will be followed as outlined in section 2-14 and 2-18 of the Procedural Orders of this SOP.

B. If an on-scene arrest of sworn personnel is warranted, the arrest will be made by the investigating supervisor. The arresting supervisor will ensure that the suspect officer, for his/her personal safety, is not incarcerated after the booking process. Enforcement action will not be deferred without prior approval from the arrested individual's deputy chief/director/captain.

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- C. If the incident is complex and requires further investigation before enforcement action can be made, the appropriate deputy chief/director/captain will assume the responsibility for coordinating the completion of the investigation.

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DWI INVOLVING LAW ENFORCEMENT OFFICERS

If personnel of a law enforcement agency are suspected of DWI, the following will be adhered to:

- A. The investigating officer will attempt to establish probable cause to make the DWI arrest using the same discretion and standards used when dealing with any other citizen.
- B. Once the investigating officer determines that probable cause exists to arrest the suspect, the investigating officer's immediate supervisor will be summoned to the scene.
- C. The supervisor arriving at the scene will confirm that probable cause exists. The supervisor will then assume responsibility for the investigation and will personally handle the arrest of the officer.
- D. Suspects will be advised that they are under arrest.
- E. Suspects will be advised of the Implied Consent Law.
- F. Suspects will be taken to the BATmobile or the booking area of BCDC for a breath alcohol test. If available, the DWI sergeant will be called to assist in the processing.
- G. Suspects who pass the breath alcohol test pursuant to N.M.S.A.1978 (breath alcohol level no greater than .05) will be released after receiving the appropriate citations, if any. If the breath alcohol level is between .05 and .08, no presumption will be made on whether the suspect is too intoxicated to operate a motor vehicle.
- H. Suspects who fail the breath test (breath alcohol level .08 or greater) will be booked on the DWI charge, plus any other offenses that arise out of the incident (refer to 2-30-3(2) of this section).
- I. The breath test will be witnessed by the arresting supervisor.
- J. Suspects who refuse the Implied Consent Law test will be processed according to normal DWI procedures outlined in the Field Services SOP, covering the Implied Consent Law.

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- K. The appropriate deputy chief/director/captain will be notified immediately by the on-scene supervisor, who will then notify the Chief of Police.

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DWI INVOLVING NON-SWORN PERSONNEL OF LAW ENFORCEMENT AGENCIES

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If non-sworn personnel of a law enforcement agency are stopped and suspected of DWI, they will be processed the same as any other citizen. When non-sworn personnel from the Albuquerque Police Department are arrested for DWI, the arresting officer's commanding officer will ensure that the proper documentation has reached the arrestee's deputy chief/director/area commander's office by 0800 hours the following day.

2-30-6

TRAFFIC ENFORCEMENT INVOLVING LAW ENFORCEMENT OFFICERS OR NON-SWORN PERSONNEL

[6]

- A. Investigating officers will retain discretion whether to cite, write a warning, or give a verbal warning, on non-mandatory appearance traffic offenses. However, the decision to cite will not be deferred until a later date.
- B. Mandatory appearance traffic offenses will be handled as outlined in subsection 2-30-3.

2-30-7

SWORN APD EMPLOYEES INVOLVED DOMESTIC VIOLENCE INCIDENTS

In the event that a domestic violence incident involves a sworn member of the Department, an on-duty supervisor will respond to conduct the investigation. The supervisor responsible for the investigation must be one rank higher than the officer involved in the incident.

- A. The supervisor will:

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1. Personally assume responsibility for the entire criminal investigation. This responsibility will not be delegated to a subordinate.

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2. Confer with the officers present at the scene.
3. Utilize a Domestic Violence Specialist Officer (DVSO) to ensure the investigation is properly conducted.

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4. Personally handle:
- a. the contact with the subject office
 - b. the physical arrest of the subject officer, if appropriate
 - c. transporting the subject officer to the booking facility.
 - d. transporting the subject officer in a vehicle with a safety screen in the event the subject officer is violent or uncooperative.

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5. Be responsible for taking action necessary to ensure the safety and security of the victim(s) when it is determined that an arrest is not appropriate.
 6. Direct the interview or interrogation of the subject officer (if this has not already been accomplished) ensuring that the subject officer is advised of Miranda rights. The supervisor will be present during the interview or interrogation.
 7. Direct the DVSO to be the primary investigator, however, the supervisor will retain oversight and responsibility for the investigation. In all cases, the supervisor must prepare and submit a narrative supplement.
 8. Ensure the DVSO prepares the booking forms, original report, criminal complaint and all other related paperwork.
 9. Confer with the on-call Assistant District Attorney and APD Legal Advisor to determine which charges will be filed.
 10. Ensure the safety and medical needs of the subject officer.
 11. Obtain and ensure the tagging of all evidence in the subject officer's possession.
 12. Remove identification cards and badges prior to booking.
 13. Handcuff subject officer in accordance with Department procedure.
 14. Secure or impound all weapons present for the safety of all personnel involved, when necessary.
 15. Notify of affected deputy chief/deputy director/area commander.
 16. At the conclusion of the investigation, forward all documents to the Internal Affairs Unit.
- B. The DVSO will be utilized for primary response. Upon arrival, the supervisor will direct his officer to:
1. Provide for the immediate medical and safety needs of the victim(s).
 2. Prepare the original report of the incident.
 3. Handle all follow-up investigation.
 4. Tape record all interviews and conversations.
 5. Obtain photographs of all injured parties, and of the scene.
 6. Obtain all evidence from the victim(s) and the scene.
 7. Prepare the summons in misdemeanor incidents.
 8. Prepare the case close-out in felony incidents.
 9. Conduct an informational interview with the victim(s) which will include:
 - a. Providing the victim(s) with Domestic Violence Assistance Packet, and obtains a receipt signature.
 - b. Informing victim(s) of services available and of procedures for obtaining a Temporary Restraining Order, including assisting the victim in obtaining the order.
 - c. Accompanying or transporting the victim(s) as needed.

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- d. Providing for the general safety and needs of the victim(s) as necessary.
 - e. In the instance where potential for violence, or if requested by the victim, the supervisor will ensure that the DVSO makes arrangements for an officer to be present during the domestic hearing.
10. In the event an Order of Protection is obtained, the DVSO will coordinate with the supervisor timely service, to include enforcing any conditions ordered by the court. The supervisor will be responsible for return of service.