



2-40 MISDEMEANOR TRAFFIC AND CITY ORDINANCE ENFORCEMENT

2-40-1 Policy

Department policy is to enforce the misdemeanor laws of the State of New Mexico and City of Albuquerque using traffic, misdemeanor, and parking citations whenever possible and appropriate.

2-40-2 Rules

6 A. Traffic Violations – Arrest

1. Officers will not physically arrest for traffic violations unless the violation requires mandatory appearance as prescribed by state law in Section 66-8-122 NMSA 1978, or when:
 - a. The person requests an immediate appearance before the court.
 - b. The person is charged with driving while under the influence of intoxicating liquor or **narcotic** drugs.
 - c. The person is charged with failure to stop in the event of an accident causing death, personal injuries, or damage to property.
 - d. The person is charged with reckless driving.
 - e. The arresting officer has probable cause to believe the person arrested has committed a felony.
 - f. The person refuses to give his/her written promise to appear in court or acknowledge receipt of a warning notice.

7 B. Uniform Traffic Citations

1. Officers, using the New Mexico Uniform Traffic Citation, may charge a person with a moving violation as defined in state statutes or city ordinances as follows:
 - a. Officers issuing a notice to appear in court citation, penalty assessment citation, or warning citation will:
 - i. Complete the Information and the "Description of the Offense" sections of the citation. Officers will not enter "see report" in the "Description of the Offense" section.
 - ii. Officers shall fill in the email address and telephone number fields for each citation. Officers shall inform the person that the purpose of including this information is to provide the information to the court so the court can inform the person of their court date. If the individual declines to provide an email address or telephone number the officer must note that in the narrative of the citation or the drop down menu if possible.
 - iii. Have the violator sign the appropriate acknowledgment.
 - iv. Give the violator a copy (blue bottom border) of the citation and, for penalty assessments, **an envelope addressed to MVD in Santa Fe.**
 - v. Not accept custody or payment of any penalty assessment.



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- vi. Issue a notice to appear if a violator declines to accept a penalty assessment notice.
 - vii. When citing a violator into court, officers will pull an arraignment date using their KDT. If the KDT system is down, then officers will set the date ten calendar days from the date of the violation. Should the tenth day fall on a weekend, or holiday, the appearance date will be the next workday.
 - viii. A new arraignment date will be pulled for every traffic stop.
 - ix. Provide the violator with a copy of the Metropolitan Court brochure that explains the process for handling citations, and/or other information upon request.
- b. Under state law section 66-8-123E, NMSA 1978, any officer violating the rules of this section is guilty of misconduct in office and is subject to removal.
 - c. Officers will advise all drivers that non-compliance with the terms of the citation may result in a suspension of their driver's license. A suspension for non-compliance remains in effect until sufficient proof of compliance is met.
 - d. If violators refuse to sign a citation, they will be booked, and the citation marked "booked".
 - e. When a citizen is arrested for a violation included in 2-40-2-A-1a through 2-40-2-A-1f 2-18-2-A-1-a through 2-18-2-A-1-f, and there are other non-arrest traffic offenses arising from the same incident, then all the violations shall be handled as arrest offenses.
 - f. When a citizen is found to have an outstanding warrant, the citizen will be booked on the warrant and allowed to sign the traffic citation if the violation is not included in 2-40-2-A-1a through 2-40-2-A-1f 2-18-2-A-1-f through 2-18-2-A-1-f.
 - g. Officers are required to submit a State of New Mexico Complaint form when booking traffic violators. The Complaint form will be signed and approved by a supervisor.
 - h. An officer who observes a traffic violation while out of uniform will not call a uniformed officer, who has not observed the violation, to the scene to issue a traffic citation.
 - i. DWI cases require all appropriate copies of traffic citations to accompany the DWI citation when a subject is booked.
 - ii. Staple them together and submit them together.
 - iii. The assisting officer shall turn in the booking copies of the citations at the time of the booking and not at the end of their shift with other citations.

C. Juveniles – [Refer to Juvenile Procedures](#)

Juveniles may acknowledge guilt of traffic offenses contained within the penalty assessment program and agree to pay the penalty.

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D. Private Property

Issuing traffic citations on private property is limited to driving while intoxicated, reckless driving, and leaving the scene of an accident.



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E. Armored Vehicles

1. The driver will present their license by either holding it up to the glass or passing it out the gun port to the officer.
2. The officer will obtain the needed information for the citation.
3. The citation will be delivered to the Court Services Unit and held for three working days for the driver's signature.
4. If the driver fails to sign the citation within those three working days, the company will be notified, and the citation returned to the issuing officer for further action.

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F. Handicapped Motor Vehicle Division Placards and Plates

1. Officers will not issue parking citations to vehicles parked in designated handicap areas displaying official Motor Vehicle Division handicap plates.

N/A

2. Motor Vehicle Division Placards and Plates

- a. The permanently disabled placard is made of blue plastic with "PERMANENT" and the international handicap logo printed on it.
 - b. The temporarily disabled placard is made of red paper, and clearly states "TEMPORARY" and has the expiration date.
 - c. The Disabled Veteran plate (permanently disabled) is marked as such and is followed by four digits.
3. The placards are to be displayed on the interior, rearview mirror.

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G. Traffic Accident - Enforcement Action

1. Officers are expected to take enforcement action whenever a traffic accident investigation indicates probable cause to believe that a violation of law or ordinance has occurred.
2. Specific enforcement actions arising from a traffic accident investigation or reporting, i.e., physical arrest, issuance of a citation, written warning, etc., will be consistent with the nature of the alleged violation and with the Department's written directive concerning traffic law enforcement.
3. Officers assigned to investigate traffic accidents will conduct thorough investigations and submit complete reports. If sufficient evidence exists to identify contributing causes of accidents, those facts and opinions must be properly reported.



4. In taking any enforcement action, the officer must establish all elements of the violation. Elements that the officer did not personally witness must be established through investigation. **The investigation may include but is not limited to:**
5. Police Service Aides who are investigating accidents where enforcement action is necessary will call a uniformed officer for assistance.

H. Special Circumstances in Traffic Enforcement

1. Military Personnel will be treated the same as other violators with the following exception:
 - a. A person is exempt from licensure when the person is in the military service of the United States or has been honorably discharged within 30 days when:
 - i. He/she holds a driver's license from any state, not more than four years old, which has expired while the person is in the military service of the United States or has been honorably discharged within 30 days when:
 - ii. He/she is stationed outside the geographical limits of the state;
 - iii. He/she is on leave from military service; and
 - iv. Only while operating a motor vehicle in this state.
2. Foreign diplomats/Consular Officials have diplomatic immunity concerning city ordinances and State and Federal laws under the guidelines of the State Department of the United States.
3. Legislators will be treated the same as other violators with one exception: Travel to and from and during current legislation sessions. Immunity is granted during these times as is covered under the New Mexico State Constitution Article IV, Section 13.

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I. Enforcement in Other Jurisdictions

1. Officers are provided with a Bernalillo County Sheriff's Special Deputy Commission when they must take enforcement action in those areas of Bernalillo County which lie outside the city limits.
2. When possible, officers should request that a Bernalillo County deputy sheriff or a New Mexico State Police officer accompany them when investigating cases in the county.
3. Officers with current Deputy Sheriff Commission card may enforce traffic laws within the jurisdiction of Bernalillo County.

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J. City of Albuquerque Code Violations

For violations of the Albuquerque Criminal Code, officers will use the Misdemeanor Citation form entitled "Citation for Ordinance Violation".



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K. Misdemeanor Citations/Non-Traffic Citations

1. Whenever practical, a misdemeanor citation will be issued instead of an arrest to Albuquerque metropolitan area residents.
2. Before issuing a misdemeanor citation, officers should conduct a **wants/warrants** check on the offender(s). If the offender(s) has an outstanding misdemeanor warrant(s), officers **shall make an arrest and complete a criminal complaint rather than issue** **will not issue the offender(s)** a misdemeanor citation.
3. When officers issue misdemeanor citations including those written on a Uniform Traffic Citation (NTCs) form, they will ensure that:
 - a. A report is written in every case.
 - b. When a violator has committed multiple offenses, a separate citation for each offense is issued.
 - c. The citation number(s) will be entered in the applicable 'Subject' section, 'Arrest/Citation No.' Box of the Uniform Incident Report.
 - d. **A The blue** copy of the misdemeanor citation (violator's copy) is given to the violator at the time of issuance.
 - e. Violators are advised that they have five working days in which to appear at the Metro Court.
 - f. Violators understand that they are under obligation to appear at the Metro Court and that should they fail to appear, a warrant of arrest will be issued.

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L. Misdemeanor Arrests

1. Physical arrests will be made when:
 - a. Violators, subject to lawful arrest, fail to identify themselves satisfactorily.
 - b. Violators refuse to sign the citation.
 - c. Arrest or detention is necessary to prevent imminent harm to violators or others, or it is necessary to remove violators from the scene of the offense.
 - d. Violators have no ties to the jurisdiction reasonably sufficient to ensure their appearance and there is a substantial likelihood that violators would refuse to respond to the citation.
 - e. Violators are intoxicated to the point that they no longer have control of their faculties.

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M. Criminal Complaint Form

1. When officers make an arrest for serious misdemeanor offenses (such as DWI and Leaving the Scene) they will:
 - a. Charge all misdemeanor offenses that occurred during the incident on a Misdemeanor Complaint form and Pre-booking form in addition to the citation.



b. This rule applies even if there is no bond required for the lesser offense.

N. Traffic, Misdemeanor, and Parking Citation Books

Will be issued to officers from their assigned area commands and the Traffic substation. Refer to the Field Services SOP, Section 4-12.

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O. Issuing a Citation

Officers will not mark out or write over information on the face of a citation, but instead will void the citation and issue a corrected one in its place.

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P. Health Code Violations

1. When police officers are called upon to assist city Environmental Health Department personnel, to include Animal Control Officers, in instances where citizens refuse to sign citations for health code violations:

- a. The police officer will advise the violator to sign the citation.
- b. If the violator still refuses to comply, both the health and police officers will sign and date the citation with a notation that the citizen refused to sign.
- c. The violator will not be arrested solely for the health code violation and/or refusing to sign the citation.
- d. It is the responsibility of the Health Department officer to ensure that the violator is summoned to Metropolitan Court.

Q. Re-Examination of Drivers by the Motor Vehicle Division

Officers who come in contact with drivers whom they believe should be re-examined by the Motor Vehicle Division should generate a letter to MVD stating the reason(s) for a re-examination i.e., suspected incompetence, physical or mental disability, disease, or any other condition that might prevent the person from exercising reasonable and ordinary care when operating a motor vehicle. Any citations or accident reports should accompany the letter to better assist MVD in their decision to re-examine the driver.

R. Parking Citations/Disabled Parking Violations

1. Officers, PSA's, and Parking Controllers, using the City of Albuquerque Parking Citation, may charge the owner of a vehicle with a parking violation in accordance with city ordinances.
2. Personnel will issue citations on private property only for handicap and fire lane violations.
3. All violations (meter, handicapped, fire lane, tow-away zone, time zone, etc.) will be enforced, with the greatest concentration during peak traffic parking times.



4. Personnel may, in congested parking areas, use walking beats to ensure enforcement of parking regulations.
5. Officers shall only use the full page Notice of Violation for Disabled Parking Violations. The small parking tickets will not be used for this purpose.
6. City ordinances only can be cited for on parking citations.
7. Only one violation can be cited for on a parking citation.

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S. Traffic Stops/Enforcement Involving Unmarked Cars

1. Types of Police Vehicles
 - a. Marked Unit - An Albuquerque Police Department vehicle that has on its exterior an APD badge decal or the APD logo. The unit must be equipped with a siren and any of the following emergency lights: grill, roof mounted or dash mounted.
 - b. Unmarked Unit Authorized to Conduct Traffic Enforcement Activities - Vehicles that are equipped with any of the above-listed emergency lights, and a siren, bearing government ("G") license plates. Officer(s) operating these types of vehicles must be in uniform to conduct traffic enforcement activities.
 - c. Unmarked Unit - Any APD vehicle issued to an officer or detective that is not equipped with siren, emergency lights, and does not have on its exterior an APD badge decal, or APD logo. These vehicles may or may not bear "G" plates.
2. When it becomes necessary for an on/off duty, non-uniformed officer, in an unmarked car, to have a vehicle stopped, the following guidelines will be followed:
 - a. The officer/detective will request an authorized unit to initiate the traffic stop.
 - b. The officer/detective will provide Emergency Communications with the following information:
 - i. Description of the vehicle.
 - ii. The direction of travel.
 - iii. Number and description of the occupants, if possible.
 - iv. Reason necessitating the stop (i.e., suspicious vehicle, suspects, wanted subjects, traffic violations, etc.).
 - c. Emergency Communications will then relay the information to the authorized unit before the stop. The officer/detective will accompany the authorized unit at the location of the stop. The officer/detective will put on the authorized police markings.
 - d. In accordance with section 2-40-2-B-1-h 2-18-2-B-1-h of this section, the officer making the stop will not issue citations for traffic violations he/she did not witness.



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3. Unavailability of an authorized unit:

- a. If an authorized unit is unavailable, the officer/detective in the unmarked unit WILL NOT conduct a traffic stop.
- b. If a driver is operating a vehicle in a dangerous manner, such as reckless driving or DWI, and an authorized unit is unavailable, the officer/detective in the unmarked unit will:
 - i. Notify Emergency Communications immediately in accordance with section 2-40-2-S-2-b. 2-18-2-S-2-b.
 - ii. Follow the vehicle, maintaining a safe distance, monitoring the progress of the vehicle until an authorized unit can initiate the stop.

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