



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-81 (Formerly 2-15)

Effective: 05/24/2023 Review: 05/24/2024 Replaces: 11/12/2021

2-81 OFF-DUTY CONDUCT: POWER OF ARREST

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

- [1-1 Personnel Code of Conduct \(Formerly 1-07 and 1-4\)](#)
- [2-1 Uniforms \(Formerly 2-06\)](#)
- [2-3 Firearms and Ammunition Authorization \(Formerly 2-22\)](#)
- [2-41 Traffic Stops \(Formerly 2-47\)](#)
- [2-56 Use of Force: Reporting by Department Personnel](#)

B. Form(s)

None

C. Other Resource(s)

NMSA 1978, § 4-41-12 Entering Other Counties; Powers

D. Rescinded Special Order(s)

None

2-81-1 Purpose

The purpose of this policy is to provide Albuquerque Police Department (Department) sworn personnel requirements for taking law enforcement action while off-duty.

2-81-2 Policy

It is the policy of the Department to determine and regulate specific situations and locations at which an off-duty officer is permitted to take any law enforcement action.

N/A 2-81-3 Definitions

A. Conflict of Interest

When an employee's personal interest or relationship in a transaction, business dealing, or obligation conflicts with the employee's duties to the Department or City of Albuquerque.

B. Off-Duty

Free from the performance of assigned or required tasks or responsibilities, not engaged in or responsible for an assigned task or obligation. This normally covers those periods of time when an officer is not working. Periods when an employee can



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use the time effectively for his or her own purposes. Driving to and from the court, overtime shift, and regular shift is considered on duty.

C. Personally Involved

Where the off-duty officer has a personal interest in a disputed matter or is asked to intervene on behalf of a family member or someone with whom they have an established relationship with, except in situations where the off-duty officer is the victim of the crime.

2-81-4 Procedures

N/A A. Liability Protection

1. Sworn personnel have liability protection for both on-duty and off-duty performance of official duties.
 - a. This protection does not extend to malicious acts that result in injury or damage or to those actions that sworn personnel knew or reasonably should have known to be in conflict with the law or the established policies or customs of the Department.

7 B. Off-Duty Responsibilities

1. Off-duty sworn personnel shall not enforce non-violent misdemeanors and low-level non-violent felonies, and non-violent felony warrants, except as allowed by this Standard Operating Procedure (SOP),
 - a. Exceptions to this policy exist in circumstances where enforcement is necessary to maintain the safety of the public.
1. Off-duty sworn personnel shall immediately report any suspected or observed violent criminal activities or situations where there could be an immediate risk of physical harm to others, or physical harm to on-duty personnel, by notifying the Emergency Communications Center (ECC) by telephone.
 - a. However, if the situation requires an immediate response, sworn personnel may use their Department-issued police radio, if available.
2. Once on-duty sworn personnel are on-scene, off-duty personnel shall remain available to relay any pertinent information to the responding on-duty officer(s). Off-duty personnel shall not involve themselves in the situation unless it threatens the safety of the on-duty sworn personnel and requires their continued presence and involvement.

- N/A**
3. When an arrest is necessary, the off-duty arresting officer shall abide by all Department policies and procedures, including immediately reporting a use of force



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to their chain of command when involved in off-duty enforcement action (refer to SOP Use of Force: Reporting by Department Personnel for sanction classifications and additional duties).

N/A

4. Sworn personnel shall have in their possession their badge, identification card, and Department-approved on-duty or off-duty firearm to effectively perform a police function; such as, conducting an arrest or other police function including but not limited to using emergency warning equipment to warn drivers of possible danger or to slow down (refer to SOP Personnel Code of Conduct, SOP Uniforms, and SOP Firearms and Ammunition Authorization sanction classifications and additional duties).
5. Sworn personnel shall advise their chain of command any time they act in their official capacity while off-duty, regardless of the extent of their involvement.

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C. Permitted Off-Duty Arrest

1. While off-duty, sworn personnel may make an arrest when the following situations occur:

N/A

- a. The arresting officer is in possession of appropriate police identification (i.e., badge, identification card, and Department-approved on-duty or off-duty firearm) (refer to SOP Uniforms for sanction classifications and additional duties);
- b. The arresting officer is not personally involved in the incident leading to the arrest;
- c. There is an immediate need for the prevention of a crime where there could be an immediate risk of physical harm to others or for the apprehension of a suspect for violent criminal activities;
- d. The crime would be charged as an offense requiring a full custodial arrest; and
- e. The arresting officer is commissioned or cross-commissioned in the jurisdiction, or the arresting officer is acting consistent with NMSA 1978, § 4-41-12.

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D. Prohibited Off-Duty Arrest

1. Sworn personnel shall not make an arrest while off-duty under the following circumstances:
 - a. An off-duty officer who is out of uniform should not attempt to make an arrest or engage in other enforcement actions when the provisions of this policy are not met or when there are other reasonably effective alternatives to affect an arrest;
 - b. When the arresting officer is personally involved in the incident underlying the arrest or a conflict of interest exists;
 - c. When a uniformed officer is readily available to assist with the incident;
 - d. The officer is not in possession of proper departmental identification and an authorized department firearm;



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N/A

- e. When engaged in off-duty employment of a non-police nature and when an officer's actions only further the interests of the private employer; or
- f. When the arrest is made solely for enforcement of minor traffic violations. Despite the fact that sworn personnel have police powers and responsibilities twenty-four (24) hours a day, throughout the jurisdiction, the off-duty officer shall not enforce minor traffic violations as consist with SOP Traffic Stops (refer to SOP Traffic Stops for sanction classifications and additional duties).