



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-40 (Formerly 2-18)

Effective: 08/10/2022 Review: 08/10/2023 Replaces: 04/09/2019

2-40 MISDEMEANOR, TRAFFIC, AND PARKING ENFORCEMENT

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

- [2-1 Uniforms \(Formerly 2-06\)](#)
- [2-22 Juvenile Delinquency \(Formerly 2-34\)](#)
- [2-41 Traffic Stops \(Formerly 2-47\)](#)
- [2-46 Response to Traffic Crashes](#)
- [2-80 Arrests, Arrest Warrants, and Booking Procedures \(Formerly 2-14\)](#)

B. Form(s)

- Criminal Complaint
- PD 3069 APD Pre-Booking Worksheet (In TraCS)
- State of New Mexico Uniform Traffic Citation

C. Other Resource(s)

- N.M. Const. art. IV, § 13 Privileges and Immunities
- NMSA 1978, § 4-41-12 Entering Other Counties; Powers
- NMSA 1978, § 66-8-122 Immediate Appearance before Magistrate
- NMSA 1978, § 66-8-123 Conduct of Arresting Officer; Notices by Citation
- ROA 1994, §§ 8-1-1-1 to 8-6-99 Traffic Code
- ROA 1994, §§ 12-1-1 to 12-5-8 Criminal Code

D. Rescinded Special Order(s)

None

2-40-1 Purpose

The purpose of this policy is to provide procedures for Albuquerque Police Department (Department) sworn personnel when conducting traffic enforcement and/or enforcing State of New Mexico and City of Albuquerque laws.

2-40-2 Policy

It is the policy of the Department to enforce the misdemeanor laws of the State of New Mexico and the City of Albuquerque by issuing citations for traffic, misdemeanor, and parking violations to individuals whenever possible and appropriate.

N/A

2-40-3 Definitions

- A. Marked Department-Issued Vehicle



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A vehicle that is issued to sworn personnel that has a Department badge decal or the Department logo affixed to the exterior of the vehicle. The vehicle shall be equipped with a siren and emergency lights that are mounted on the vehicle's grill, roof, or dashboard.

B. Unmarked Department-Issued Vehicle

A vehicle that is issued to sworn personnel that is not equipped with emergency lights nor a siren and does not have a Department badge decal or Department logo affixed to the exterior of the vehicle. An unmarked Department-issued vehicle may or may not have a government-issued license plate.

C. Unmarked Department-Issued Vehicle for Traffic Enforcement

A vehicle that is issued to sworn personnel that is equipped with emergency lights that are mounted on the vehicle's grill, roof, or dashboard, a siren, and has a government-issued license plate.

7 2-40-4 **Misdemeanor Enforcement**

6 A. Misdemeanor Arrests for Traffic Violations

1. Sworn personnel shall not physically arrest an individual unless:
 - a. The violation requires mandatory appearance as prescribed by NMSA 1978, § 66-8-122; or
 - b. When an individual who is subject to a lawful arrest fails to fully identify themselves.
2. Sworn personnel shall make an arrest when the arrest or detention of an individual is necessary to prevent imminent harm to others or it is necessary to remove the individual from the scene of the offense.
3. Criminal Complaint
 - a. Prior to booking the individual, arresting sworn personnel shall ensure that all State of New Mexico Criminal Complaints where a physical arrest of an individual is made have a supervisor's signature.
 - b. Sworn personnel who arrest an individual for a misdemeanor and traffic offenses shall charge the individual for all misdemeanor offenses that occurred during the incident on the Criminal Complaint, pre-booking form, and misdemeanor citation.
 - i. This applies when there is no bond required for the lesser offense.

N/A

B. Non-Traffic Citations for Misdemeanors

1. Sworn personnel shall:



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- a. Whenever practical, issue a misdemeanor citation to individuals instead of an arrest;
- b. Conduct a warrant check on the individual(s) before issuing a misdemeanor citation; and
 - i. If the individual(s) has an outstanding misdemeanor warrant(s), sworn personnel shall make an arrest and complete a Criminal Complaint rather than issue a misdemeanor citation.
- c. When issuing a misdemeanor citation or a Uniform Traffic Citation for a non-traffic citation (NTC):
 - i. Complete a Uniform Incident Report for every case;
 - ii. Issue a separate misdemeanor citation when an individual has committed multiple offenses;
 - iii. Provide a copy of the misdemeanor citation to the individual at the time of issuance;
 - iv. Advise the individual that they have five (5) working days in which to appear at the Bernalillo County Metropolitan Court; and
 - v. Ensure the individual understands that they shall appear at the Bernalillo County Metropolitan Court, and if they fail to appear, a warrant shall be issued for their arrest.

7 2-40-5

Traffic Enforcement

A. Traffic Crash Enforcement Action

N/A

1. Sworn personnel shall take enforcement action whenever a traffic crash investigation indicates probable cause to believe that a violation of law has occurred, consistent with SOP Responses to Traffic Crashes (refer to SOP Response to Traffic Crashes for sanction classifications and additional duties).
 - a. Sworn personnel shall take enforcement actions, such as a physical arrest, issuance of a citation, or a written warning, etc., that arise from a traffic crash investigation consistent with the nature of the alleged violation.
 - b. Sworn personnel shall establish all elements of the violation(s) prior to taking any enforcement action.
 - c. Sworn personnel shall establish the elements that they did not personally witness through an investigation.

N/A

2. Sworn personnel who are assigned to investigate traffic crashes shall conduct thorough investigations and submit complete Uniform Crash Reports, consistent with SOP Response to Traffic Crashes (refer to SOP Response to Traffic Crashes for sanction classifications and additional duties).
 - a. If sufficient evidence exists to identify contributing factors for traffic crashes, sworn personnel shall properly document the facts and their opinions in a Uniform Crash Report.



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3. A Police Service Aide (PSA) who is investigating a traffic crash where enforcement action is necessary shall request assistance from a uniformed officer through the Emergency Communications Center (ECC).

B. Traffic Stops

1. When charging an individual with violating state or local traffic laws, sworn personnel shall:

- a. Complete the State of New Mexico Uniform Traffic Citation using the TraCS system;
 - i. When the TraCS system is down, sworn personnel may complete the paper version of the Uniform Traffic Citation, if available.
 - ii. When paper citations are unavailable, sworn personnel shall issue a criminal summons for the violation(s).
- b. Fill in the email address and telephone number fields for each Uniform Traffic Citation and shall inform the person that the purpose of including this information is to provide it to the court so the court can inform the person of their court date;
 - i. If the individual declines to provide an email address or telephone number, sworn personnel shall note the refusal in the narrative section of the Uniform Traffic Citation.
- c. Advise the individual that non-compliance with the terms of the Uniform Traffic Citation may result in a suspension of their driver's license;
 - i. A suspension for non-compliance remains in effect until sufficient proof of compliance is met.
- d. Have the individual sign the appropriate acknowledgment;
- e. Check the Court Appearance box in the Uniform Traffic Citation if the individual declines to acknowledge the penalty assessment; and
- f. Give the individual a copy of the Uniform Traffic Citation.
 - i. If the TraCS system is down, sworn personnel shall set the date at ten (10) calendar days from the date of the violation.
 1. If the tenth day falls on a weekend or holiday, sworn personnel shall set the appearance date on the next workday.
 2. The TraCS system automatically selects the traffic arraignment date if the selection is chosen.

N/A

N/A

N/A

2. When sworn personnel attempt to issue a Uniform Traffic Citation and the individual refuses to sign it, they shall arrest the individual and check the "Booked" checkbox on the citation.
3. Sworn personnel shall not:
 - a. Mark out or write over information on the face of a Uniform Traffic Citation, but instead shall void the citation and issue a corrected one in its place;
 - i. Sworn personnel shall provide all voided citations to Court Services Unit personnel.



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- b. Enter "See Report" in the "Description of the Offense" section; or
 - c. Accept custody or payment for any penalty assessment.
4. When sworn personnel verify through the ECC NCIC Operator that an individual has an outstanding warrant, they shall arrest and book them on the warrant and shall allow the individual to sign the Uniform Traffic Citation.
5. Sworn personnel who violate the rules outlined in NMSA 1978, § 66-8-123 shall be guilty of misconduct in office and are subject to removal.

N/A

C. Traffic Stops Involving Juveniles

A juvenile may acknowledge guilt of a traffic offense contained within the penalty assessment program and agree to pay the penalty (refer to SOP Juvenile Delinquency for sanction classifications and additional duties).

N/A

D. Traffic Stops on Private Property

Sworn personnel may only issue a Uniform Traffic Citation on private property when the individual is driving while under the influence (DWI), driving recklessly, or has left the scene of a traffic crash.

E. Traffic Stops for Individuals Driving Armored Vehicles

1. When stopping an individual who is driving an armored vehicle, sworn personnel shall:
- a. Ask the driver to present their license by either holding it up to the glass or passing it out of the gun port;
 - b. Obtain the needed information for the Uniform Traffic Citation; and
 - c. Provide the Uniform Traffic Citation to Court Services Unit personnel.
 - i. Court Services Unit personnel shall hold the citation for three (3) business days for the driver's signature.
 - ii. If the driver fails to sign the Uniform Traffic Citation within three (3) business days, Court Services Unit personnel shall notify the company and return the citation to the issuing officer for further action.

F. Special Circumstances in Traffic Enforcement

1. Sworn personnel shall treat military personnel the same as other individuals who have violated traffic laws with the following exceptions:
- 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 thirty (30) days when:
 - i. They hold a driver's license from any state that is not more than four (4) years old, which has expired while the person is active military service for



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the United States or has been honorably discharged within thirty (30) days when they are:

1. Stationed outside the geographical limits of the state of New Mexico;
 2. On leave from military service; and
 3. Only while operating a motor vehicle in the state of New Mexico.
- b. Foreign diplomats or consular officials have diplomatic immunity concerning federal and state laws and City ordinances under the guidelines of the U.S. Department of State.

2. Sworn personnel shall treat state legislators the same as other individuals who have violated traffic laws except when traveling to and from and during current legislation sessions. Immunity is granted during these times pursuant to the Constitution of New Mexico, Article IV, Section 13.

G. Enforcement in Other Jurisdictions

1. When required, sworn personnel shall exercise their legal authority to take enforcement action as a cross-commissioned Deputy Sheriff in Bernalillo County when they hold a current Deputy Sheriff credential, consistent with NMSA 1978, § 4-41-12.
2. When possible, sworn personnel shall request for a Bernalillo County Deputy Sheriff or a New Mexico State Police officer to accompany them when investigating traffic enforcement cases in Bernalillo County.

H. Re-examination of Drivers by the New Mexico Motor Vehicle Division (MVD)

1. Sworn personnel who come into contact with drivers whom they believe should be re-examined by the MVD shall submit a letter on Department letterhead to the MVD stating the reason(s) why they believe the individual needs to be re-examined, including, but not limited to:
 - a. Suspected incompetence;
 - b. Physical or mental disability;
 - c. Medical disease; or
 - d. Any other condition that might prevent the person from exercising reasonable and ordinary care when operating a motor vehicle.
2. Sworn personnel shall ensure that any citations or Uniform Crash Reports accompany the letter to assist MVD personnel in their decision to re-examine the driver.

I. Traffic Enforcement in Unmarked Department-Issued Vehicles

N/A

1. Sworn personnel shall wear a uniform jacket or, as an option, a raid jacket/windbreaker and a vest or tactical vest while enforcing traffic laws in an



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unmarked Department-issued vehicle, consistent with SOP Uniforms (refer to SOP Uniforms for sanction classifications and additional duties).

- a. When on-duty or off-duty, when it becomes necessary for a non-uniformed officer or detective who is driving an unmarked Department-issued vehicle to conduct a traffic stop:
 - i. The officer or detective shall request for an officer who drives a marked Department-issued vehicle to initiate the traffic stop;
 - ii. The officer or detective shall provide ECC personnel with the following information:
 - 1. Description of the vehicle;
 - 2. The direction of travel;
 - 3. Number and description of the occupants, if possible; and
 - 4. Reason necessitating the stop (i.e., suspicious vehicle, individuals suspected of committing a crime, an individual wanted for committing a crime, traffic violations, etc.).
 - iii. ECC personnel shall relay the information to the officer who is driving a marked Department-issued vehicle before conducting the traffic stop;
 - iv. The officer or detective shall accompany the officer in the marked Department-issued vehicle to the location of the traffic stop; and
 - v. The officer or detective shall have a uniform jacket or, as an option, a raid jacket/windbreaker, vest, or tactical vest.

N/A

- 2. When an officer who drives a marked Department-issued vehicle is unavailable, the officer or detective in the unmarked Department-issued vehicle may conduct a traffic stop.

N/A

- a. If the driver is operating a vehicle in a dangerous manner, such as reckless driving or DWI, and an officer who is driving a marked Department-issued vehicle for traffic enforcement is unavailable, the officer or detective in the unmarked Department-issued vehicle may:
 - i. Follow the vehicle, maintaining a safe distance, monitoring the progress of the vehicle until a marked Department-issued vehicle can initiate the stop, consistent with SOP Traffic Stops; and
 - ii. Conduct a traffic stop for the safety of other motorists.

- 3. The officer who conducts the traffic stop shall not issue a traffic citation for traffic violations that they did not witness.

7 2-40-6 Parking Enforcement

A. Issuing Parking Citations

N/A

- 1. Department personnel may issue City of Albuquerque parking citation(s) for a parking violation in accordance with City ordinances.



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2. Department personnel shall enforce parking laws to the greatest extent for all parking violations during peak traffic parking times.

3. Department personnel shall only cite one violation on a parking citation.

N/A

4. In congested parking areas, Department personnel may patrol on foot to enforce parking regulations.

5. Department personnel shall not mark out or write information on the face of a parking citation but instead shall void the citation and issue a corrected one in its place.

N/A

6. Department personnel may get a parking citation book from their assigned area commands.

B. Parking Citations for Disabled Vehicle Parking Violations

Department personnel shall issue a parking citation to an individual who is parked on private property for parking in a designated handicap area or for parking in a fire lane only.

C. MVD Handicap Placards and Plates

1. Department personnel shall not issue a parking citation for vehicles that are parked in designated handicap areas that display an official MVD handicap plate.

N/A

a. The permanently disabled placard is made of blue plastic and indicates "PERMANENT," and the international handicap logo is printed.

N/A

b. The temporarily disabled placard is made of red paper, and indicates "TEMPORARY," and has the expiration date.

N/A

c. The disabled Veteran plate is marked as such and is followed by four (4) digits.

N/A

d. All placards are to be displayed on the interior rearview mirror.