



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-76 (Formerly 2-01)

Effective: 06/03/2022 Review: 06/03/2023 Replaces: 09/29/2016

**2-76 COURT**

**Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):**

A. Related SOP(s)

[1-31 Court Services Unit \(Formerly 2-06 and 8-14\)](#)

B. Form(s)

State of New Mexico Bernalillo County Metropolitan Court Motion for Continuance (CR-030)

C. Other Resource(s)

None

D. Rescinded Special Order(s)

SO 19-85 Online Court Leave Form

**2-76-1 Purpose**

The purpose of this policy is to detail the procedures and expectations for Albuquerque Police Department (Department) personnel while appearing and testifying at a court hearing.

**2-76-2 Policy**

It is the policy of the Department to ensure that Department personnel are properly notified about appearing and testifying at court and MVD hearings to ensure that they appear at the scheduled times, and that they are properly prepared and attired.

**N/A 2-76-3 Definitions**

None

**6 2-76-4 Procedures**

A. Notification of Court Appearances

1. Department personnel shall:

- a. Check the Court Docket that is posted on SharePoint each work week; and
- b. Check their email for any subpoena or court hearing notices.

2. Defense attorney subpoenas will be served to Department personnel, their direct supervisor, or staff at the employee's area command.



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3. Notifications to Courts of Vacation, Leave Time, or Schedule Changes

- a. Department personnel must submit an online Court Services Request Leave form to Court Services Unit personnel a minimum of twenty (20) calendar days before taking leave or attending training.
  - i. Department personnel are prohibited from submitting an excessive amount of leave requests for their regular days off.
  - ii. Department personnel shall notify the United States Attorney's Office to reschedule any cases pending in the U.S. District Court.
  - iii. If Department personnel do not submit the online Court Services Request Leave form a minimum of twenty (20) calendar days before taking leave or attending training, they shall not be relieved of their responsibility to appear in court when they have been properly notified.
- b. Department personnel shall notify Court Services Unit personnel of permanent schedule changes.
  - i. Department personnel shall notify Court Services Unit personnel of extended temporary duty (TDY) assignments or schedule changes over forty-five (45) days.

B. Logging Out for Court Appearances

1. On-duty Department personnel shall log on to their Mobile Dispatch Terminal (MDT) when en route to a court hearing and shall clear when the hearing is complete.
2. Off-duty Department personnel who are en route to a court appearance shall log on with a court-out status (10-92) and shall specify the court at which the hearing will be held.

C. Courtroom Attire and Securing Weapons

1. For U.S. District Court and Second Judicial District Court hearings:
  - a. Department personnel shall appear in formal business attire, which may include a suit or pant suit; or
  - b. Department personnel may wear their Department-approved duty uniform in an emergency only, with authorization from the court and at a preliminary hearing.
2. For Bernalillo County Metropolitan Court hearings, MVD hearings, pretrial interviews, and the Second Judicial Children's Court:
  - a. Department personnel may appear in semi-formal business attire, which may include business attire or a pant suit. Suit jackets are optional; or



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b. Department personnel may wear the Department-approved duty uniform, unless they are appearing for personal reasons that are unrelated to their official duties.

3. Upon entering any courthouse, when required, sworn personnel shall secure all firearms in a lock box at the courthouse's security checkpoint.

a. However, sworn personnel who are responding to a call for service or an emergency at the courthouse or when they are working at the courthouse are exempt from this requirement.

D. Expert Witness Fees for Testimony in Civil Cases

1. Only Department personnel who are named in a subpoena for a civil case shall accept service of the subpoena. Civil subpoenas may only be served in person to the employee named in the subpoena.

a. Department personnel who fail to obey a subpoena may be considered in contempt of court.

b. Department personnel shall accept service of civil case subpoenas naming them, whether or not fees are attached.

2. If the civil case involves a pending claim or lawsuit against Department personnel, the Department, or the City of Albuquerque, or if Department personnel believe that there may be a potential liability, Department personnel shall notify the Risk Management Division within twenty-four (24) hours of being subpoenaed.

5 3. Department personnel who appear in civil court during their normal duty hours shall endorse the offered check as "Payable to the City of Albuquerque Only". Department personnel shall then give the check and the subpoena to City of Albuquerque Fiscal Division personnel in City Hall.

5 4. If Department personnel are no longer required to appear in court, any checks received shall be returned to the issuing party.

5 5. Department personnel who appear in civil court while off-duty may either keep the check or submit overtime in the same manner as for other court overtime. If the employee elects to submit overtime, they shall endorse the offered check as "Payable to the City of Albuquerque Only". Department personnel shall then give the check and the subpoena to City Fiscal Division personnel in City Hall.

E. Contact with Attorneys

1. Criminal Cases

a. When Department personnel are contacted by defense attorneys on criminal cases, they shall notify the District Attorney's Office of any request.



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2. Civil Cases

- a. When Department personnel are contacted by private attorney(s) on civil cases in which the City of Albuquerque has no interest, Department personnel shall:
  - i. Refer the attorney(s) to the relevant Uniform Incident Reports;
  - ii. If the attorney insists on discussing the case without benefit of a court-directed deposition, refer the attorney to the Risk Management Division for discussion with the City Legal Department; and
  - iii. If the City Legal Department approves an informal conference between Department personnel and the private attorney, Risk Management Division personnel shall notify the employee and the following guidelines shall apply.
    1. On-duty Department personnel may respond to short questions from private attorneys by telephone, whenever possible.
    2. If a telephone conference is not sufficient, Department personnel may schedule a conference with the private attorney.
      - A. Department personnel shall follow the procedures for expert witness fees outlined in this Standard Operating Procedure.

F. Court, Pretrial, MVD Hearing Attendance, and Missed Court

1. All Department personnel directed to appear in court hearings, pretrial interviews, or MVD hearings must appear and be prepared to testify. A special court notice, the posted court, and MVD hearing notices, or subpoenas are considered an order to appear.
  - a. Department executive personnel shall grant an exception to the requirement to appear for such hearings if the employee is needed elsewhere for the betterment of the Department. Department executive personnel shall review each exception on a case-by-case basis and determine the precedence the exception holds over the hearing in question.
  - b. Department personnel shall wait for the Defense Attorney(s) to arrive for Metropolitan Court pretrial hearings for fifteen (15) minutes from the time of the scheduled hearing.
  - c. If an attorney calls to inform Department personnel that they will be late, they shall wait an additional fifteen (15) minutes if they are not expected in another court case. The same expectation shall be requested of defense attorney(s) when Department personnel inform the attorney(s) that they will be late.
  - d. Department personnel shall arrive at or before their court case or hearing scheduled time.
  - e. Department personnel shall abide by all court rules and regulations when appearing for court.
  - f. Department personnel shall log on with a court-out status (10-92), specify the court in attendance and shall indicate the case number in the Computer-Aided Dispatch (CAD) entry comments section.



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2. When Department personnel receive more than one (1) court notification requiring concurrent appearances, the higher court notice shall take precedence over the lower court(s). In addition, court hearings shall take precedence over MVD hearings.
3. When Department personnel are notified of a conflicting hearing of a higher court, they may notify Court Services Unit personnel of the conflict and shall attend the higher court hearing.
4. Priority of attendance is as follows:
  - a. U.S. District Court;
  - b. Second Judicial District Court;
  - c. Felony DA pretrial interviews;
  - d. Bernalillo County Metropolitan Court;
  - e. Misdemeanor pretrial interviews;
  - f. Children's Court;
  - g. MVD hearings; and
  - h. All other notices or interviews.
5. When Department personnel are scheduled for court or MVD hearings and are unable to appear or will be late due to unforeseen conditions, they shall notify Court Services Unit personnel or court personnel at the earliest possible time and before the scheduled appearance. Failure of Department personnel to properly notify Court Services Unit personnel or court personnel of their absence from or tardiness for a court hearing shall be considered failing to attend the hearing.
6. When Department personnel contact Court Services Unit personnel and get their voicemail, they shall leave a message on the voicemail system to include their name, man number, the court hearing information, and the reason they are unable to attend the court hearing.
  - a. For Bernalillo County Metropolitan Court, U.S. District Court, Second Judicial District Court notifications, Department personnel shall notify Court Services Unit personnel on the scheduled court day only.
    - i. Court Services Unit personnel shall notify the appropriate court personnel.
  - b. For grand jury notifications or preliminary hearings, Department personnel shall:
    - i. Notify the presenting Assistant District Attorney of their absence and any witness change; and
    - ii. When available, inform the Assistant District Attorney of an officer that was involved in the case that may be able to testify on their behalf.
  - c. For U.S. District Court notifications, Department personnel shall notify the United States Attorney's Office or shall notify the presenting federal Assistant District Attorney Monday through Friday, 0800 to 1700 hours.
7. Sworn personnel may be excused for missing a court hearing for certain reasons including, but not limited to:



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- a. They are ill or have a family emergency; and
  - i. Supervisors, at their discretion, may require a doctor's note should personnel call in sick for court.
- b. They are on a call for service and are unable to attend the court hearing.
  - i. Department executive personnel may grant an exception if the employee is needed elsewhere for the betterment of the Department.
  - ii. Department executive personnel shall review each exception on a case-by-case basis and determine the precedence the exception holds over the hearing in question.

8. Court Continuances

- a. Officer Prosecuted Cases:
  - i. Department personnel requesting a continuance of less than twenty (20) days shall be responsible for contacting defendants or their counsel for objection as required by the Bernalillo County Metropolitan Court.
    - 1. Department personnel shall not submit a continuance fewer than five (5) working days before the scheduled court hearing.
  - ii. Department personnel may obtain a Motion for Continuance form from Court Services Unit personnel.
- b. Criminal Cases (Felonies, DWIs, and Domestic Violence):
  - i. Department personnel requesting a continuance with less than twenty (20) days shall contact the assigned prosecutor.

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G. Jury Duty Fees

- 1. Department personnel who are called for jury duty shall be paid their regular salary while serving.
- 2. Department personnel shall relinquish any payments that they receive for serving jury to City Fiscal Division personnel.

H. Conflict of Interest Testimony

- 1. Department personnel who are subpoenaed to testify in a court case in which they have not been involved as a witness, victim, investigator, or reporting officer shall determine the nature of the testimony.
  - a. If it appears that the employee will be asked to testify about Department personnel, the Department, or an outside law enforcement agency, they shall contact Risk Management Division personnel before giving any testimony or being deposed.

N/A

- i. Court Services Unit personnel shall send case files for officer prosecution to the officer, consistent with SOP Court Services Unit (refer to SOP Court Services Unit for sanction classifications and additional duties).