

# CRIMINAL FORMS

## 1986 Recompile

### ARTICLE 1 GENERAL PROVISIONS

#### 9-101.

[5-106, 6-106, 7-106, 8-106]

STATE OF NEW MEXICO  
IN THE \_\_\_\_\_ COURT  
\_\_\_\_\_ COUNTY  
STATE OF NEW MEXICO  
v.

No.

\_\_\_\_\_  
\_\_\_\_\_

#### NOTICE OF EXCUSAL

(CONSTITUTION OR CODE OF CONDUCT)

The undersigned believes that the impartiality of the  
Honorable \_\_\_\_\_

\_\_\_\_\_ may reasonably be questioned because:

\_\_\_\_\_ (set forth specific  
facts which prohibit the judge from presiding. The facts must  
be grounds for excusal under the New Mexico Constitution or the  
Code of Judicial Conduct.)

The undersigned believes that participation of the above-  
named judge would be in violation of \_\_\_\_\_ of the  
Code of Judicial Conduct.

[As amended, effective November 1, 1995.]

#### ANNOTATIONS

The 1995 amendment, effective November 1, 1995, rewrote the form.

**9-102.**

[5-106, 6-106, 7-106, 8-106]

STATE OF NEW MEXICO (COUNTY OF  
\_\_\_\_\_) )  
\_\_\_\_\_) (CITY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )

v.

John Doe

CERTIFICATE OF EXCUSAL OR RECUSAL

I hereby certify that I have (been excused) (recused myself) from presiding in the above case and ten (10) days have passed since the parties were notified of such recusal or excusal.

The parties have not filed a stipulation agreeing to another judge of the district to hear the case.

It is requested that another judge be designated according to law.

\_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Judge  
Division

[As amended, effective September 1, 1989; November 1, 1995.]

**ANNOTATIONS**

**The 1995 amendment**, effective November 1, 1995, rewrote the form.

**9-103.**

[5-106, 6-106, 7-106]

STATE OF NEW MEXICO  
\_\_\_\_\_ )

(COUNTY OF

\_\_\_\_\_ )

(CITY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )

v.

John Doe

#### NOTICE OF EXCUSAL

The undersigned hereby notifies the court that the Honorable  
\_\_\_\_\_ is excused from presiding over the above-  
captioned case.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_

Party or attorney for the party

[As amended, effective May 1, 1986; November 1, 1995.]

#### ANNOTATIONS

**The 1995 amendment**, effective November 1, 1995, deleted "he is exercising his right to excuse" preceding "the Honorable" and inserted "is excused".

#### 9-104.

[6-109, 7-109, 8-108]

STATE OF NEW MEXICO  
(COUNTY OF \_\_\_\_\_ )  
(CITY OF \_\_\_\_\_ )

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)  
v.

No.

\_\_\_\_\_  
John Doe

WAIVER OF APPEARANCE

I understand that I am charged with the following criminal offense or offenses under the law of the (State of New Mexico) (City of \_\_\_\_\_): *(list all offenses charged)*

I understand that I am entitled to personally appear before the court at every stage of the criminal proceedings.

I hereby acknowledge receipt of a copy of the complaint which I have read and had explained to me by defense counsel. I understand the crime or crimes charged and the penalty provided by law for the crime or crimes charged.

After reading and understanding the above, I hereby give up my right to personally appear at:

*(check applicable boxes)*

- arraignment
- trial
- imposition of sentence

\_\_\_\_\_  
Signature of defendant

CERTIFICATE OF DEFENSE COUNSEL

*(To be completed if the defendant is represented by counsel)*

I have explained to the defendant the right to personally appear before the court at all stages of the criminal proceedings and the defendant's right to a trial by jury and I am satisfied that the defendant understands the waiver of (this) (these) rights.

Date: \_\_\_\_\_

\_\_\_\_\_  
Defense counsel

APPROVAL OF JUDGE

\_\_\_\_\_  
Judge  
\_\_\_\_\_  
Date

USE NOTE

*(This form has been prepared for the magistrate, metropolitan and municipal courts. It may be modified to delete parts which are inapplicable in municipal court proceedings or petty misdemeanors.)*

[As amended, effective October 1, 1996.]

**ANNOTATIONS**

**The 1996 amendment**, effective October 1, 1996, substituted "signature of defendant" for "name of defendant" under the signature line, inserted "and the defendant's right to a trial by jury" and substituted "(this) (these) rights" for "this right" and made gender neutral changes in the Certificate of Defense Counsel portion, added the Approval of Judge portion, and added the Use Note.

**9-105.**

[6-106, 7-106, 8-106]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_ )  
\_\_\_\_\_  
(CITY OF \_\_\_\_\_ )  
\_\_\_\_\_ )

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )  
v.  
John Doe

NOTICE OF RECUSAL

You are notified that I have recused myself from presiding over the above-captioned case. The parties are further notified that if within ten (10) days they do not file with the court a stipulation agreeing to another judge to hear the case, another judge will be assigned to hear the case.

\_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Division

[Adopted, effective October 1, 1987; as amended, effective November 1, 1995.]

### ANNOTATIONS

**The 1995 amendment**, effective November 1, 1995, substituted "You are notified that I have recused myself" for "The undersigned hereby notifies the parties that he is recusing himself", "file with the court a stipulation agreeing to" for "agree upon", and "another judge will be assigned to hear the case" for "the clerk will request the district court to assign".

## ARTICLE 2 INITIATION OF PROCEEDINGS

### 9-201.

[5-201, 6-201, 7-201, 8-202]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

No.

\_\_\_\_\_

v.  
John Doe

Date filed:

\_\_\_\_\_

CRIMINAL COMPLAINT

CRIME: \_\_\_\_\_ (common name of offense or offenses)

The undersigned, under penalty of perjury, complains and says that on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the County of \_\_\_\_\_, State of New Mexico, the above-named defendant(s) did: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (here state the essential facts) contrary to Sections(s)

NMSA 1978.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Title (if any)  
Approved:

\_\_\_\_\_  
\_\_\_\_\_  
Title

This complaint may not be filed without the prior payment of a filing fee unless approved by the District Attorney or a law enforcement officer authorized to serve an Arrest or Search Warrant. Approval of the District Attorney or a law enforcement officer is not otherwise required.

[As amended, effective September 1, 1990; April 1, 1991; November 1, 1991.]

ANNOTATIONS

**The 1990 amendment**, effective for cases filed on or after September 1, 1990, rewrote this form, which formerly provided that the complainant take an oath before a notary, judge, or other officer.

**The first 1991 amendment**, effective for cases filed on or after April 1, 1991, rewrote this form to the extent that a detailed comparison would be impracticable.

**The second 1991 amendment**, effective for cases filed on or after November 1, 1991, substituted "under penalty of perjury" for "being duly sworn, upon oath," near the beginning, and, near the end, added the oath and deleted the former notary signature language.

**9-202.**

[7-201, 8-201]

STATE OF NEW MEXICO

CITY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

CITY OF \_\_\_\_\_ No.

\_\_\_\_\_

v.

John Doe

Date filed:

\_\_\_\_\_

CRIMINAL COMPLAINT

CRIME: \_\_\_\_\_ (*common name of offense or offenses*)

The undersigned, under penalty of perjury, complains and says that on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the City of \_\_\_\_\_, State of New Mexico, the above-named defendant(s) did: \_\_\_\_\_

\_\_\_\_\_ (*here state the essential facts*)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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---

---

contrary to Sections(s)

---

---

NMSA 1978

*(set forth applicable section number of municipal code or municipal ordinance and date of adoption).*

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

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Complainant

---

---

Title (if any)

Approved:

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---

---

Title

[As amended, effective September 1, 1990; November 1, 1991.]

### ANNOTATIONS

**The 1990 amendment**, effective for cases filed on or before September 1, 1990, rewrote this form, which formerly required the complainant to take an oath before a notary, judge, or other officer.

**The 1991 amendment**, effective for cases filed on or after November 1, 1991, substituted "under penalty of perjury" for "being duly sworn, upon oath," near the beginning, and, near the end, added the oath and deleted the former notary signature language.

**9-203.**

[5-201]

STATE OF NEW MEXICO

COUNTY OF

IN THE DISTRICT COURT

STATE OF NEW MEXICO

No.

v.

Crime:

(common name of offense)

John Doe

CRIMINAL INFORMATION

The district attorney of \_\_\_\_\_ County, State of New Mexico, states that on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, in said County and State, the above-named defendant(s) did: \_\_\_\_\_ (here state the essential facts)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

contrary to Section(s) \_\_\_\_\_ NMSA 1978.

The names of the witnesses upon whose testimony this information is based are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
District Attorney

Distr

**9-204.**

[5-201]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE DISTRICT COURT

STATE OF NEW MEXICO

No.

\_\_\_\_\_

v.

Crime:

\_\_\_\_\_

John Doe

*(common name of offense)*

GRAND JURY INDICTMENT

THE GRAND JURY CHARGES:

On or about the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_, in \_\_\_\_\_ County, State of New Mexico, the  
above-named defendant(s)  
did: \_\_\_\_\_ *(here state the  
essential facts)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

contrary to Section(s) \_\_\_\_\_ NMSA 1978.

The names of the witnesses upon whose testimony this  
indictment is based are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
I hereby certify that the foregoing indictment is a  
\_\_\_\_\_  
Bill.

\_\_\_\_\_  
Foreman

Dated:

\_\_\_\_\_  
APPROVED:

\_\_\_\_\_  
(District Attorney)

**9-205.**

[5-201]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
IN THE DISTRICT COURT

STATE OF NEW MEXICO,

Plaintiff

v.

No \_\_\_\_\_

\_\_\_\_\_  
Defendant

WAIVER OF PRELIMINARY HEARING AND

PRESENTATION OF GRAND JURY

I have been informed of the criminal charges against me, and of my right to have a preliminary hearing or presentation to a grand jury upon those charges.

I do hereby freely and voluntarily waive my right to a

preliminary hearing and presentation to a grand jury.  
Acknowledged by:

\_\_\_\_\_  
\_\_\_\_\_  
Attorney for  
Defendant  
Defendant

**9-206.**

[6-202, 7-202]

STATE OF NEW MEXICO COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO  
v.

No.

\_\_\_\_\_  
John Doe

NOTICE OF PRELIMINARY  
EXAMINATION

TO:

\_\_\_\_\_  
\_\_\_\_\_  
*(Defendant's attorney or if no attorney, defendant)*

\_\_\_\_\_  
\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
\_\_\_\_\_  
*(District Attorney)*

\_\_\_\_\_  
\_\_\_\_\_  
*(Address)*

Please take notice that pursuant to the rules governing the procedure for this court, a preliminary examination will be held in the above-entitled action on the \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ (a.m.)  
(p.m.), at the \_\_\_\_\_ court located at  
\_\_\_\_\_.

You are hereby ordered to appear at the above time and place.

\_\_\_\_\_  
\_\_\_\_\_  
(Judge) (Clerk)

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this notice to  
\_\_\_\_\_ (name) at the address indicated,

Date of mailing:

\_\_\_\_\_ 19\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Judge) (Clerk)

[As amended, effective January 1, 1995.]

**ANNOTATIONS**

**The 1995 amendment**, effective January 1, 1995, added the lines for the district attorney and the address of the district attorney near the beginning of the notice.

**9-207.**

[5-302, 6-202, 7-202]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_  
John Doe

BIND-OVER ORDER

I hereby ORDER that the defendant(s) (is) (are) bound over

for trial in the district court on the: *(please check appropriate box)*

offenses charged in the complaint.

offenses charged in the complaint and the following additional offenses:

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*(Here set forth the common name of the additional offenses and, if applicable, a specific section of the New Mexico statutes which defines the offenses.)*

following offenses:

---

---

---

---

*(check one)*

A preliminary examination on the offenses set forth in the complaint was waived.

A preliminary examination was held on the offenses set forth in the complaint.

I find that there is probable cause to believe that the above offenses have been committed and that the defendant committed them.

---

---

Date

---

---

Judge

(Attach copy of Complaint, any Warrants issued, Appearance Bond or Bail Bond, and Order Specifying Conditions of Release.)

**9-207A.**

[5-301, 6-203, 7-203, 8-202]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

John Doe

PROBABLE CAUSE DETERMINATION

(For use only if the defendant

has been arrested without a warrant

and has not been released)

**Finding of Probable Cause**

[ ] I find that there is a written showing of probable cause to believe that a crime has been committed and that the above named defendant committed it.

It is ordered that the defendant shall be released:

[ ] on personal recognizance.

[ ] on the conditions of release set forth in the release order.

**Failure to Make Showing of Probable Cause**

[ ] I find that probable cause has not been shown that a crime has been committed and that the above named defendant committed it. It is therefore ordered that the complaint against the defendant be and the same is hereby dismissed without prejudice and the defendant be immediately discharged from custody.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

Unless the defendant has been released on personal



recognizance, the amount of bail set and any conditions of release prescribed by a designee must also be reviewed.

This form is not necessary if the finding of probable cause is endorsed by the judge on the criminal complaint or on a statement of probable cause.

[Approved effective September 1, 1990.]

**9-208.**

[5-208, 5-209, 6-204, 6-205, 7-204, 7-205, 8-203, 8-204]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

No

\_\_\_\_\_  
John Doe

CRIMINAL SUMMONS

To:

\_\_\_\_\_  
(Defendant)

\_\_\_\_\_  
(Address)

You are notified that a Complaint, a copy of which is attached hereto, has been filed in this court charging that you committed the offense of \_\_\_\_\_

\_\_\_\_\_ (common name and description of offense charged).

You are ordered to appear before the undersigned on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ m. at \_\_\_\_\_ in the (County of) (City of)

\_\_\_\_\_ State of New Mexico, to plead to the above charge(s).

If you fail to appear at the time and place specified, a warrant will be issued for your arrest.

Service of this summons shall be by: (personal service) (mail).

\_\_\_\_\_  
\_\_\_\_\_  
Judge or Clerk

Name of the Law Enforcement Entity  
Filing the Criminal Complaint

BY: \_\_\_\_\_ Prosecuting  
Attorney Law Enforcement Officer

Address \_\_\_\_\_

CERTIFICATE OF MAILING

I certify that I mailed a copy of the Summons and a copy of the Complaint in the above-styled cause to the defendant at the above address on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
\_\_\_\_\_  
(Title)

\_\_\_\_\_  
\_\_\_\_\_  
(Date)

RETURN

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

(check one box and fill in appropriate blanks)  
(if full-time salaried law enforcement officer)

[ ] I certify that I served the above Summons on \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by delivering a copy thereof, with copy of complaint attached, in the (county) (municipality) named above in the

following manner:

[ ] I, \_\_\_\_\_, being duly sworn, upon my oath, say that I am over the age of eighteen (18) years and that I served the within summons the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by delivering a copy thereof, with a copy of complaint attached, in the (county) (municipality) named above in the following manner:

(check one box and fill in appropriate blanks)

[ ] to the defendant

(if the defendant was absent)

[ ] to \_\_\_\_\_ (name of person), a person over the age of fifteen (15) residing at the usual place of abode of defendant

(if no person is found at defendant's dwelling)

[ ] by posting a copy on the \_\_\_\_\_ (describe place - most public part of premises)

(if a corporation)

[ ] to \_\_\_\_\_ (name of officer and title) of \_\_\_\_\_ corporation

---

Signature [of Affiant]  
of Person Making Service

---

\_\_\_\_\_ Title (if any)

\* Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Judge, Notary Public or Other Officer

Authorized to Administer Oaths

\_\_\_\_\_  
Official Title

If Notary Public:

My commission expires: \_\_\_\_\_

\* If service is made by a full-time salaried law-enforcement officer, the signature of such officer need not be notarized [notarized].

[As amended, effective July 1, 1988; January 1, 1990.]

### ANNOTATIONS

**Cross-references.** - As to service of warrants by police officers, see 3-13-2 NMSA 1978.

As to duty of sheriff to execute process and orders of magistrate and municipal courts, see 4-41-14 NMSA 1978.

As to directing of warrant to a law enforcement officer, see 31-1-4 NMSA 1978.

**The 1989 amendment**, effective for cases filed on or after January 1, 1990, in the "Criminal Summons" form, substituted "the above charge(s)" for "said charges(s)" in the second paragraph, inserted "or Clerk" below a signature line near the end, and added the lines at the end of that form regarding the law enforcement entity and prosecuting attorney; rewrote the former "Certificate of Service" form and redesignated it as "Return"; and deleted the former form designated "Affidavit of Service by Person Making Service".

**9-209.**

[5-208, 6-204, 7-204, 8-203]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v. \_\_\_\_\_ No.

\_\_\_\_\_  
JOHN DOE

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, in the (County) (City) of \_\_\_\_\_, State of New Mexico, the above-named defendant(s) did commit the crime of:

\_\_\_\_\_  
\_\_\_\_\_  
(state common name of offense or offenses) contrary to law of the State of New Mexico.

The undersigned further states the following facts on oath to establish probable cause to believe that the above-named defendant(s) committed the crime charged:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (include facts in support of the credibility of any hearsay relied upon)

\_\_\_\_\_  
\_\_\_\_\_ (print/type)  
Affiant's Name

\_\_\_\_\_  
\_\_\_\_\_ Signatu  
re of Affiant

\_\_\_\_\_  
\_\_\_\_\_ Official  
Title (if any)

Subscribed and sworn to before me in the \_\_\_\_\_ above-named (county) (city) of the \_\_\_\_\_ Judge, Magistrate, \_\_\_\_\_ Notary or other State of New Mexico this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, \_\_\_\_\_ Officer Authorized to Administer

Oaths

NOTE: Article II, Section 10 of the New Mexico Constitution provides that an Arrest Warrant may issue on a sworn written statement of facts showing probable cause. This Affidavit is to be used only when the Complaint does not set forth sufficient facts to establish probable cause.

**9-210.**

[5-210, 6-206, 7-206, 8-206]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_  
(CITY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )  
v.

No.

\_\_\_\_\_  
John Doe

WARRANT FOR ARREST

THE (STATE OF NEW MEXICO) (CITY OF \_\_\_\_\_ )

TO ANY OFFICER AUTHORIZED TO EXECUTE

THIS WARRANT:1

BASED ON A FINDING OF PROBABLE CAUSE, YOU ARE HEREBY  
COMMANDED to arrest the above-named defendant and bring the  
defendant without unnecessary delay before me2 to answer the  
charge of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (here state  
common name and description of offense charged) contrary to  
Section(s) \_\_\_\_\_ (NMSA 1978) (OF THE  
MUNICIPAL ORDINANCE OF THIS MUNICIPALITY)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Judge

RETURN WHERE DEFENDANT IS FOUND

I arrested the above-named defendant on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_, and served a copy of this warrant  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
Signature

\_\_\_\_\_

Title

1 An Arrest Warrant may be directed to a full-time salaried state or county law enforcement officer, a municipal police officer, a campus security officer, or an Indian tribal or pueblo law enforcement officer.

2 If the judge is unavailable, defendant must be brought forthwith before designee for setting of conditions of release. A defendant accused of a bailable offense may not be held without the setting of conditions of release. (Rules 6-401, 8-401.)

**9-211.**

[5-209, 6-207, 7-207, 8-206]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_ )  
\_\_\_\_\_) (CITY OF \_\_\_\_\_ )  
\_\_\_\_\_) )

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )  
v.  
John Doe No.

\_\_\_\_\_

AFFIDAVIT FOR BENCH WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, in the (County) (City) of \_\_\_\_\_, State of New Mexico, the above-named person:

(check appropriate box or boxes)

[ ] failed to appear at the time and place ordered by this court

failed to appear as required by a subpoena issued by this court

failed to appear in accordance with the conditions of release imposed by this court

should appear for review of conditions of release previously imposed

failed to pay fines or costs previously imposed

failed to comply with conditions of probation

\_\_\_\_\_ (*describe contempt*)

The undersigned further states the following facts on oath to establish

probable cause to believe that the above-named person:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(set forth facts in support of affidavit including any hearsay relied upon)*

\_\_\_\_\_  
Affiant's name (*print/type*)

\_\_\_\_\_  
Signature of affiant

\_\_\_\_\_  
Official title (*if any*)

Subscribed and sworn to  
before me in the above-named  
(county) (city) of the  
State of New Mexico this \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Judge, Notary or Other Officer  
Authorized to Administer Oaths

*NOTE: This form is needed only if the judge does not have personal knowledge of the failure to appear or do the thing ordered.*

[As amended, effective January 1, 1996.]

### **ANNOTATIONS**

**The 1996 amendment**, effective January 1, 1996, deleted the former fifth alternative which read "is in contempt of this court", and added the last alternative.



**9-212.**

[5-209]

STATE OF NEW MEXICO  
\_\_\_\_\_ )

(COUNTY OF

IN THE DISTRICT COURT

STATE OF NEW MEXICO  
v.  
o. \_\_\_\_\_  
John Doe

N

BENCH WARRANT

THE STATE OF NEW MEXICO

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE HEREBY COMMANDED to arrest \_\_\_\_\_ and bring (him) (her) forthwith before this court to answer the following charges:

*(check appropriate box or boxes)*

- failure to appear at the time and place ordered by this court
- failure to appear as required by a subpoena issued by this court
- failure to appear in accordance with the conditions of release imposed by this court
- conditions of release previously imposed should be revoked or reviewed
- contempt of court
- failure to pay fines or costs previously imposed
- failure to comply with conditions of probation

\_\_\_\_\_  
Judge

RETURN

I arrested the above-named person on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by taking such person into custody.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title  
[As amended, effective January 1, 1996.]

**ANNOTATIONS**

**Cross-references.** - For bench warrant in courts of limited jurisdiction, see Rule 9-212A NMRA 1997.

**The 1996 amendment,** effective January 1, 1996, deleted blanks relating to municipal courts throughout the rule, and substituted "IN THE DISTRICT COURT" for "IN THE . COURT" in the caption.

**9-212A.**

[6-207, 7-207, 8-206]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_ )  
\_\_\_\_\_) (CITY OF \_\_\_\_\_ )  
\_\_\_\_\_) )  
IN THE \_\_\_\_\_ COURT  
(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )  
v. No.

\_\_\_\_\_  
John Doe  
DOB: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_  
S.S.# \_\_\_\_\_

**BENCH WARRANT**

THE (STATE OF NEW MEXICO) (MUNICIPALITY OF \_\_\_\_\_ )  
TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:  
YOU ARE HEREBY COMMANDED to arrest the above-named defendant

and bring (him) (her) forthwith before this court to answer the following charges checked below unless released as indicated in the return:

*(check applicable box and describe facts below)*

- failure to appear as ordered by this court on \_\_\_\_\_ ;
- failure to appear as required by a subpoena issued by this court for \_\_\_\_\_ ;
- failure to appear in accordance with the conditions of release imposed by this court for \_\_\_\_\_ ;
- conditions of release previously imposed should be revoked or reviewed;
- contempt of court for \_\_\_\_\_

- \_\_\_\_\_ ;
- failure to pay fines or costs previously imposed by order entered \_\_\_\_\_ (date);
- failure to comply with conditions of probation as set forth in an order entered \_\_\_\_\_ (date);
- failure to appear at first offender program on \_\_\_\_\_ ;

other \_\_\_\_\_ .  
*(set forth any additional essential facts underlying issuance of this warrant.)*

*(check and complete, if applicable)*

The defendant failed to appear either on a traffic citation (other than a citation issued for a violation listed in Section 66-8-122 or 66-8-125 NMSA 1978) or a game and fish citation and may be released on a plea of guilty and payment of \$\_\_\_\_\_ plus a \$100 bench warrant fee;

OR

The defendant failed to pay fines and costs and defendant may be released upon payment of the outstanding fine and court costs in the amount of \$\_\_\_\_\_ plus a \$100 bench warrant fee;

OR

The defendant may be released on bond in the amount of \$\_\_\_\_\_ . The bench warrant fee will be collected upon appearance.

\_\_\_\_\_  
Date

Judge

RETURN

The defendant was arrested and taken into custody on the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
[ ] The defendant was released on bond in the amount set  
forth above;  
[ ] The defendant was released upon receipt of the fine  
and court costs set forth above.

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Title

EXPLANATORY NOTE

*A \$100 bench warrant fee is assessed in the metropolitan court pursuant to Section 34-8A-12 NMSA 1978 and in the magistrate court pursuant to Section 35-6-5 NMSA 1978. [Effective January 1, 1993; as amended, effective January 1, 1995; January 1, 1996.]*

**ANNOTATIONS**

**The 1995 amendment**, effective January 1, 1995, added "plus a \$100 bench warrant fee" in two places near the end of the form, added "The bench warrant fee will be collected upon appearance" in the last alternative, and added the explanatory note.

**The 1996 amendment**, effective January 1, 1996, added the parenthetical "check applicable box and describe facts below" near the beginning, added lines for describing the facts in each of the first set of alternatives, and added the blanks for additional facts following the first set of alternatives.

**9-213.**

[5-211, 6-208, 7-208, 8-207]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_

(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

AFFIDAVIT FOR SEARCH WARRANT

Affiant, being duly sworn, upon his oath, states that I have reason to believe that on the following described premises or person of

\_\_\_\_\_

\_\_\_\_\_ (here name person and/or describe premises)

in the city or county designated above there is now being concealed

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(set forth name of person or describe property as particularly as possible) and that the facts tending to establish the foregoing grounds for issuance of a Search Warrant are as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(include facts in support of the credibility of any hearsay relied upon; if necessary, continue on reverse side of this form or on a separate page or pages)

Subscribed and sworn to or  
declared and affirmed to  
before  
me in the above-  
named

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
county of the State Official Title (if any)  
of New Mexico this  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Judge, Notary or Other Officer  
Authorized to Administer Oaths

\_\_\_\_\_  
Official Title

NOTE: This affidavit shall be filed in the same file as the  
search warrant. If no criminal proceedings are filed, the  
affidavit and warrant shall be filed in a miscellaneous file.

**9-214.**

[5-211, 6-208, 7-208, 8-207]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )  
(CITY OF \_\_\_\_\_ )

v.

No \_\_\_\_\_

\_\_\_\_\_  
John Doe

SEARCH WARRANT

THE (STATE OF NEW MEXICO) (CITY OF \_\_\_\_\_)

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

Proof by Affidavit for Search Warrant, having been submitted to me, I am satisfied that there is probable cause that the person named or property described in the Affidavit is located where alleged in the Affidavit and I find that grounds exist for the issuance of the Search Warrant. A copy of the Affidavit is attached and made a part of this Warrant.

YOU ARE HEREBY COMMANDED to search forthwith the person or place described in the Affidavit between the hours of 6:00 a.m. and 10:00 p.m., unless I have specifically authorized a nighttime search, for the person or property described in the Affidavit, serving this Warrant together with a copy of the Affidavit, and making the search and if the person or property be found there, to seize the person or the property and hold for safekeeping until further order of the court.

You are further directed to prepare a written inventory of any person or property seized. You are further directed to file the return and written inventory with the Court promptly after its execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Judge

AUTHORIZATION FOR NIGHTTIME SEARCH

I further find that reasonable cause has been shown for nighttime execution of this Warrant. I authorize execution of this Warrant at any time of the day or night for the following reasons:

\_\_\_\_\_  
*(set forth reasons why a nighttime search is necessary)*

\_\_\_\_\_  
Judge

RETURN AND INVENTORY

I received the attached Search Warrant on \_\_\_\_\_,  
19\_\_\_\_\_, and executed it on \_\_\_\_\_, 19\_\_\_\_\_, at  
\_\_\_\_\_ o'clock (a.m.) (p.m.). I searched the person or  
premises described in the Warrant and I left  
a copy of the Warrant with

\_\_\_\_\_  
\_\_\_\_\_  
*(name the person searched or owner at the place of search)*  
together with a copy of the inventory for the items seized.

The following is an inventory of property taken pursuant to  
the warrant:

\_\_\_\_\_  
\_\_\_\_\_  
*(attach separate inventory if necessary)*  
\_\_\_\_\_  
\_\_\_\_\_

This inventory was made in the presence of  
\_\_\_\_\_  
*(name of applicant for the search warrant)*  
and \_\_\_\_\_

\_\_\_\_\_  
*(name of owner of premises or property. If not available, name  
of other credible person witnessing the inventory.)*

This inventory is a true and detailed account of all the  
property taken pursuant to the Warrant.

\_\_\_\_\_  
\_\_\_\_\_  
re of Officer Signatu

\_\_\_\_\_  
Signature of Owner of Property or  
Other Witness

Return made this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.).  
\_\_\_\_\_



(Judge)

(Clerk)

After careful search, I could not find at the place, or on the person described, the property described in this warrant.

\_\_\_\_\_  
\_\_\_\_\_  
Officer  
\_\_\_\_\_

Date

**9-215.**

[5-301, 6-203, 7-203, 8-202]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
\_\_\_\_\_

CITY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )  
v.

No.

\_\_\_\_\_  
John Doe

STATEMENT OF PROBABLE CAUSE

The above defendant has been arrested without a warrant for the following reasons (*set forth a plain, concise and definitive statement of facts establishing probable cause*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(continued on attached sheet)*

**I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT UNDER OATH.**

\_\_\_\_\_  
*(Date)*  
*(Signature)*

*(This form is to be used only if the defendant was arrested without a warrant and the complaint and any attachments to the complaint do not make a written showing of probable cause.)*

[Approved effective September 1, 1990; as amended, effective April 1, 1991; December 1, 1993.]

**ANNOTATIONS**

**The 1991 amendment**, effective for cases filed on or after April 1, 1991, added the references to city in the caption, deleted "I do solemnly declare and affirm under penalty of perjury that the matters and facts set forth in this statement are true to the best of my knowledge, information and belief" preceding the signature line for the arresting officer, and added the statement and signature line for judge, notary, or other officer authorized to administer oaths, at the end of the form.

**The 1993 amendment**, effective December 1, 1993, added the bold paragraph near the end containing the oath or affirmation, and deleted a notary acknowledgment form from the end of the form.

**Effective dates.** - Pursuant to a court order dated March 7, 1990, this form is effective for cases filed on or after September 1, 1990.

**9-216.**

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_)  
\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)  
v.

No.

\_\_\_\_\_  
John Doe

CRIMINAL SUMMONS

FAILURE TO APPEAR OR COMPLY WITH COURT ORDERS

To: \_\_\_\_\_ (Defendant)  
\_\_\_\_\_ (Address)

You are notified that you have

\_\_\_\_\_ (set forth reason defendant  
is being ordered to appear)

You are ordered to appear before the undersigned on the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_.m. at  
\_\_\_\_\_ in the (County of) (City of)  
\_\_\_\_\_ State of New Mexico, to answer  
why you have failed to (comply with the court's orders) (appear  
as required).

If you fail to appear at the time and place specified, a  
warrant may be issued for your arrest.

BRING THIS SUMMONS WITH YOU WHEN YOU APPEAR.

\_\_\_\_\_  
\_\_\_\_\_  
Judge or Clerk

CERTIFICATE OF MAILING

I certify that I mailed a copy of the summons to the  
defendant at the above address on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
\_\_\_\_\_  
(Title)

(Date)

USE NOTE

*(Do not print use note on pre-printed forms)*

*This form may be used prior to the issuance of an order to show cause or bench warrant. This form was designed to be printed on one page.*

[Adopted, effective January 1, 1995.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated September 30, 1994, this form is effective January 1, 1995.

**ARTICLE 3  
RELEASE PROVISIONS**

**9-301. Withdrawn.**

**ANNOTATIONS**

**Compiler's note.** - Pursuant to a court order dated March 7, 1990, this form, relating to record of responses to questions at release hearing, is withdrawn for cases filed on or after September 1, 1990.

**9-302.**

[5-401, 6-401, 7-401, 8-401]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )

(CITY OF \_\_\_\_\_ )

v.

No.

---

John Doe

ORDER SETTING CONDITIONS OF RELEASE

AND

APPEARANCE BOND

(This form is to be used if the  
defendant is to be released on personal  
recognizance or an unsecured appearance bond.)

**(check applicable alternatives)**

**Release on personal recognizance.** It is ordered that the defendant be released without bail on the defendant's promise to appear and subject to the conditions checked below.

**Release on unsecured appearance bond.** It is ordered that the defendant be released on bail in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) provided that the defendant executes an unsecured appearance bond and agrees to the conditions checked or set forth below.

**Third-party custodian.** It is ordered that the defendant report to (name)

---

\_\_\_\_\_ (set forth designated entity or pretrial services agency agreeing to supervise the defendant) \_\_\_\_\_ (set forth telephone number of entity).

APPEARANCE BOND

I \_\_\_\_\_, defendant in the above-entitled matter, do hereby bind myself to the following conditions of release:

I agree to appear before the above court on \_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.) in courtroom \_\_\_\_\_ and at such other places as I may be required to appear, in accordance with any and all orders and directions relating to my appearance in the above-entitled matter as may be

given or issued by the above court or any magistrate, district or appellate court to which above entitled case may be filed, removed or transferred.

**(check and complete if applicable)**

[ ] I further agree to pay the (State of New Mexico) (City of \_\_\_\_\_) the full amount of the bail set forth above in the event that I fail to appear as required or comply with the additional conditions checked below.

Agreement to Comply with All

Additional Conditions of Release

**(complete and check only applicable conditions prior to signature of this bond by the defendant)**

I further agree that:

[ ] I will remain in the custody of the above named third-party custodian who has agreed to report any violation of a release condition to the court;

[ ] I understand that my release is subject to my maintaining my employment. If my employment is terminated I agree to immediately report such termination to the court;

[ ] I will actively seek employment;

[ ] I will attend classes at \_\_\_\_\_;

[ ] I will not associate with the following persons \_\_\_\_\_;

[ ] I will not leave the (city of \_\_\_\_\_) (this county) (the county of \_\_\_\_\_) (this state) (the state of \_\_\_\_\_) without further permission of the court;

[ ] I will reside at \_\_\_\_\_ unless otherwise agreed to by the court;

[ ] I will avoid all contact with \_\_\_\_\_ and \_\_\_\_\_ (set forth the names of the alleged crime victim or any potential witness to the crime);

[ ] I will not leave my residence between the hours of \_\_\_\_\_ (p.m.) and \_\_\_\_\_ (a.m.) without prior permission

of the court;

I will not possess a firearm, destructive device or other dangerous weapon without prior permission of the court;

I will:

refrain from excessive consumption of beer, wine and other alcoholic beverages;

not drink any alcoholic beverages;

I will not take or use any narcotic drugs without a prescription by a licensed medical practitioner;

I will submit to any urine analysis or alcohol test upon the request of \_\_\_\_\_;

I agree to the following (medical) (psychological or psychiatric) treatment for \_\_\_\_\_ (set forth treatment such as treatment for drug or alcohol dependency);

I will remain at (set forth name of institution) \_\_\_\_\_ for the following treatment \_\_\_\_\_ for a period of \_\_\_\_\_;

I agree that if I am released for the purpose of (employment) (schooling), I will return to \_\_\_\_\_ (set forth place of detention) each day immediately after (work) (school) (classes).

I understand the above conditions of release and agree to them.

I understand that the court may have me arrested at any time, without notice, to review and reconsider these conditions.

I understand, that if I fail to appear as required, I may be prosecuted and sent to (jail) (the penitentiary) for the separate offense of failure to appear. I agree to comply fully with each of the conditions imposed on my release and to notify the court promptly in the event I change the address indicated below.

I understand that my conditions of release may be revoked and I may be charged with a separate criminal offense if I intimidate or threaten a witness, the victim or an informant or

if I otherwise obstruct justice.

I further understand that my conditions of release will be revoked if I violate a federal, state or local criminal law.

\_\_\_\_\_  
\_\_\_\_\_  
Defendant

\_\_\_\_\_  
\_\_\_\_\_  
Address

\_\_\_\_\_  
\_\_\_\_\_  
City and State

C

\_\_\_\_\_  
\_\_\_\_\_  
Telephone Number

Tel

The above conditions of release are hereby approved. The defendant shall be released from custody upon the execution of this agreement and the posting of the required bond.

\_\_\_\_\_  
\_\_\_\_\_  
Judge (Designee)

(Judge)

\_\_\_\_\_  
\_\_\_\_\_  
Date

[As approved, effective September 1, 1990.]

### ANNOTATIONS

**Compiler's note.** - Pursuant to a court order dated March 7, 1990, the former form, relating to order setting conditions of release, is withdrawn for cases filed on or after September 1, 1990, and the above form is adopted effective for cases filed on or after September 1, 1990.

### 9-303.

[5-401, 6-401, 7-401, 8-401]



STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )  
(CITY OF \_\_\_\_\_ )  
v. \_\_\_\_\_ No.

\_\_\_\_\_  
John Doe

ORDER SETTING CONDITIONS OF RELEASE

BAIL BOND

(This form is to be used if the defendant is to be released on a secured appearance bond or bail bond. If a surety provides bond for the defendant, Rule 9-304 must also be completed. If the defendant personally deposits cash as required, no other form is required.)

It is ordered that the defendant be released on bail in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) provided that the defendant executes this order and agreement and:

**(check and complete applicable alternatives)**

deposits with the court the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in cash being \_\_\_\_\_ % of the required bond to secure its performance. (A paid surety may post cash with the court provided the paid surety executes an agreement that upon forfeiture the paid surety will pay the balance of the full amount of the bail set forth above.)

executes a bail bond on a form approved by the supreme court in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) or deposits with the clerk of the court, in cash, one-hundred percent (100%) of the amount of the bail set. (If a surety posts bond for the defendant the defendant and the surety must also execute Rule 9-304.)

it is ordered that the defendant report to (name) \_\_\_\_\_ (set forth designated entity or pretrial services agency agreeing to supervise the defendant)

\_\_\_\_\_ (set forth telephone number of entity).

DEFENDANT'S BOND

I \_\_\_\_\_, defendant in the above-entitled matter, do hereby bind myself to the following conditions of release:

**(court or designee must complete before the defendant reads and signs this bond)**

I agree to appear before the above court on \_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.) in courtroom \_\_\_\_\_ and at such other places as I may be required to appear, in accordance with any and all orders and directions relating to my appearance in the above-entitled matter as may be given or issued by the above court or any magistrate, district or appellate court to which the above entitled case may be removed or the cause transferred.

I further agree to pay the (State of New Mexico) (City of \_\_\_\_\_) the full amount of the bail set forth above in the event that I fail to appear as required or comply with the additional conditions checked below.

**Agreement to Comply with All Additional Conditions of Release**

I further agree that:

**(court or designee must complete applicable conditions prior to signature by the defendant)**

I will remain in the custody of the above named third-party custodian who has agreed to report any violation of a release condition to the court;

I understand that my release is subject to my maintaining my employment. If my employment is terminated I agree to immediately report such termination to the court;

I will actively seek employment;

I will attend classes at \_\_\_\_\_;

I will not associate with the following persons \_\_\_\_\_;

I will not leave the (city of \_\_\_\_\_) (this county) (the county of \_\_\_\_\_) (this state) (the state of \_\_\_\_\_) without further permission of the court;

I will reside at \_\_\_\_\_ unless otherwise agreed to by the court;

I will avoid all contact with \_\_\_\_\_ and \_\_\_\_\_ (set forth the names of the alleged crime victim or any potential witness to the crime);

I will not leave my residence between the hours of

\_\_\_\_\_ (p.m.) and \_\_\_\_\_ (a.m.) without prior permission of the court;

I will not possess a firearm, destructive device or other dangerous weapon without prior permission of the court;

I will:

refrain from excessive consumption of beer, wine and other alcoholic beverages;

not drink any alcoholic beverages;

I will not take or use any narcotic drugs without a prescription by a licensed medical practitioner;

I will submit to any urine analysis or alcohol test upon the request of \_\_\_\_\_;

I agree to the following (medical) (psychological or psychiatric) treatment for \_\_\_\_\_ (set forth treatment such as treatment for drug or alcohol dependency);

I will remain at (set forth institution) \_\_\_\_\_ for the following treatment \_\_\_\_\_ for a period of \_\_\_\_\_;

I agree that if I am released for the purpose of (employment) (schooling), I will return to \_\_\_\_\_ (set forth place of detention) each day immediately after (work) (school) (classes).

I understand the above conditions of release and agree to them.

I understand that the court may have me arrested at any time, without notice, to review and reconsider these conditions.

I understand, that if I fail to appear as required, I may be prosecuted and sent to (jail) (the penitentiary) for the separate offense of failure to appear. I agree to comply fully with each of the conditions imposed on my release and to notify the court promptly in the event I change the address indicated below.

I understand that my conditions of release may be revoked and I may be charged with a separate criminal offense if I intimidate or threaten a witness, the victim or an informant or if I otherwise obstruct justice.

I further understand that my conditions of release will be revoked if I violate a federal, state or local criminal law.

\_\_\_\_\_  
Defendant  
\_\_\_\_\_

Address

\_\_\_\_\_

City and State

\_\_\_\_\_

Telephone Number

Tel

The above conditions of release are hereby approved. The defendant shall be released from custody upon the execution of this agreement and the posting of the required bail bond.

\_\_\_\_\_

) (Designee)

(Judge

\_\_\_\_\_

Date

[As withdrawn and approved effective September 1, 1990.]

**ANNOTATIONS**

**Compiler's note.** - Pursuant to a court order dated March 7, 1990, the former form, relating to appearance bond, is withdrawn and the above form is adopted, effective for cases filed on or after September 1, 1990. For form comparable to former one, see Rule 9-302.

**9-303A.**

[6-401, 7-401, 8-401]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_

(CITY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe

RELEASE ORDER AND BOND

It is ordered that the defendant be released from custody subject to the following conditions:

**(check and complete applicable alternatives)**

- Personal recognizance
- Unsecured appearance bond of \$ \_\_\_\_\_
- Third party custodian:

\_\_\_\_\_  
\_\_\_\_\_ (name)  
\_\_\_\_\_ (address)

\_\_\_\_\_  
\_\_\_\_\_ (city & zip code)  
\_\_\_\_\_ (telephone)

- Secured bond of \$ \_\_\_\_\_:
  - cash at \_\_\_\_\_% of a bond
  - bail bond executed on Rule 9-304
  - property bond executed on Rule 9-304

I agree to appear before the court on \_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.) located at \_\_\_\_\_ and thereafter at such times and places required in this case by any court.

I further agree:

- not to possess firearms or dangerous weapons;
- not to possess or consume alcohol or enter liquor establishments;
- not to violate any federal, state or local criminal law;
- to notify the court of any change of address;
- not to leave the (county of \_\_\_\_\_) (State of \_\_\_\_\_) without prior permission of the Court;
- to maintain contact with my attorney;
- to avoid all contact with the alleged victim or anyone who may testify in this case;
- (other conditions)

\_\_\_\_\_  
\_\_\_\_\_  
**Judicial approval of conditions:**

\_\_\_\_\_  
Date  
ordered  
(designee)

\_\_\_\_\_  
(Judge)

**Defendant's approval of conditions:**

I UNDERSTAND THE ABOVE CONDITIONS OF RELEASE AND AGREE TO THEM. If I fail to appear or if I violate a condition of release, I understand that bond will be forfeited and I agree to pay the amount of the bond to the state. I understand that additional criminal charges may be filed if I violate conditions of release.

_____	_____
Date of signature	Defendant's
signature	
_____	_____
Date of release (mailing)	Address
_____	_____
Time of release zip	City, state,
_____	_____
_____	Defendant's
telephone number	

USE NOTE

*(Do not print use note on pre-printed forms)*

*This form may be used instead of Rule 9-303 if the defendant is to be released on a secured or unsecured appearance bond or bail bond. It has been designed for printing on one page. It may be modified to include any of the conditions set forth on Rule 9-303.*

*If a surety provides bond for the defendant, Rule 9-304 must also be completed. If a third party custodian is named, a third-party custodian agreement must also be completed and signed.*

*A paid surety may post cash with the court provided the paid surety executes an agreement that upon forfeiture the paid surety will pay the balance of the full amount of the bail set forth above.*

[Adopted, effective January 1, 1995.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated September 30, 1994, this form is effective January 1, 1995.

**9-304.**

[5-401, 6-401, 7-401, 8-401]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

No. \_\_\_\_\_

v.

John Doe

**BAIL BOND**

We, the undersigned, jointly and severally acknowledge that we and our personal representatives are bound to pay to the (State of New Mexico) (City) the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_).

The conditions of this bond are that the above-named defendant is to appear as required in accordance with any and all orders and directions relating to the defendant's appearance in the above-entitled matter as may be given or issued by the court or in any other district or appellate court to which the defendant may be removed or the cause transferred, including any bind-over or subsequent indictment of the defendant in the District Court for offenses arising out of the transaction or event for which this bond is given. Further conditions of the bond are that the defendant is not to depart the State of New Mexico, except in accordance with such orders or warrants as may be issued by the court; that the defendant is to abide by any judgment entered in such matter by surrendering himself to serve any sentence imposed and obeying any order or direction in connection with such judgment as the court imposing it may

prescribe.

If the defendant appears as ordered and otherwise obeys and performs the foregoing conditions of this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions, payment of the amount of this bond shall be due forthwith. Forfeiture of this bond for any breach of its conditions may be declared by any court having cognizance of the above-entitled matter at the time of such breach; and if the bond is forfeited and if the forfeiture is not set aside, upon motion judgment may be entered against each debtor jointly and severally for the amount above stated, together with interest and costs, and execution may be issued and payment secured as provided by law.

By executing this bail bond the sureties submit to the jurisdiction of the court and irrevocably appoint the clerk of the court as their agent upon whom papers affecting their liability may be served.

IT IS AGREED AND UNDERSTOOD THAT THIS IS A CONTINUING BOND WHICH SHALL CONTINUE IN FULL FORCE AND EFFECT UNTIL SUCH TIME AS THE BOND IS DULY EXONERATED AND DISCHARGED BY THE COURT. THE BOND GUARANTEES THE APPEARANCE OF THE DEFENDANT.

This bond is signed on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_

\_\_\_\_\_  
Signature of  
Defendant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature of  
Surety

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature of  
Surety

\_\_\_\_\_  
Address

JUSTIFICATION OF SURETIES

(Not to be completed if surety is a corporate surety licensed



to do business in the State of New Mexico)

We, the undersigned sureties on oath say that we,  
\_\_\_\_\_ of \_\_\_\_\_ and \_\_\_\_\_ of  
\_\_\_\_\_, each own (real) (personal) property in the  
state having an unpledged and unencumbered net value in excess  
of the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_). We  
further say

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Signature of Surety

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Signature of Surety

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_,  
personally appeared before me in the above-named (county) (city)  
of the State of New Mexico \_\_\_\_\_ and  
\_\_\_\_\_, known to me to be the persons described in  
and who on their oath executed the above and foregoing  
justification and acknowledged to me that they executed the bond  
as their free act and deed.

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

Approved: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Authorized Person Judge or

USE NOTE

1. If the surety is married, both spouses must sign the bond  
unless it is demonstrated to the court that the property is not  
community property. (See § 40-3-4 NMSA 1978.)  
[As amended, effective May 15, 1991.]

**ANNOTATIONS**

**The 1991 amendment**, effective for cases filed on or after May 15, 1991, in the capitalized paragraph, inserted "and discharged by the court" and deleted "at all times up to the final disposition of all charges including imposition of sentence and any appeal or new trial" from the end of that paragraph.

**9-305.**

[5-401, 6-401, 7-401, 8-401]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

---

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v. \_\_\_\_\_ No. \_\_\_\_\_

---

John Doe

LIST OF OUTSTANDING BONDS,  
ENCUMBRANCES AND CLAIMS

Note: This list must be kept current and submitted when any bond is filed in District, Magistrate, Metropolitan and Municipal Courts.

1. Property bondsman's name:  
\_\_\_\_\_
2. License number:  
\_\_\_\_\_
3. Bondsman's business address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Street) (City) (State)  
(Zip Code)
4. Date of this list:  
\_\_\_\_\_
5. Legal description of property securing bond (may be

attached) :

---



---



---



---



---



---

6. Outstanding encumbrances and claims, other than bonds, against property:

---



---



---



---



---



---

7. Current outstanding bonds written against property.

Amount of Location Bond Court	Name and Date of Posted	Case Number	Name of Defendant
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
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-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----

I HEREBY CERTIFY UNDER PENALTY OF PERJURY that the above information is true and correct as of the above date.

---

erty Bondsman

Prop

**9-306.**

[6-401, 7-401]

STATE OF NEW MEXICO

(COUNTY OF

(CITY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )

(CITY OF \_\_\_\_\_ )

No.

v.

\_\_\_\_\_, Defendant

COMMITMENT FOR PRELIMINARY HEARING

The above-named defendant having been brought before me under a warrant charging the defendant with the crime of \_\_\_\_\_, and having failed to give bail for his appearance, is committed to the sheriff of the county of \_\_\_\_\_, to await

Preliminary Hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock, at which time you will have his body before me at my office. Bail is fixed in the amount of \$ \_\_\_\_\_.

\_\_\_\_\_  
Judge

Division

**9-307.**

[5-406, 6-406, 7-406, 8-406]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe and

\_\_\_\_\_, (surety)

\_\_\_\_\_, (surety)

NOTICE OF FORFEITURE AND

ORDER TO SHOW CAUSE

TO:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
defendant  
address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
surety  
address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
surety  
address

You and each of you are hereby notified that the bail in this case has been forfeited because of a (failure of the defendant to appear before the court as required) (breach of condition of the bond).

IT IS ORDERED that you appear on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ m., before this court at \_\_\_\_\_, New Mexico, to show cause, if any you have, why judgment should not be entered against you, jointly and severally, for the amount of the bond or bonds posted herein.

YOU ARE HEREBY NOTIFIED that if you fail to appear as

required by this order, a default judgment will be entered against you and if such default judgment is not paid within ten (10) days, execution will be issued to collect the full amount of the bond.

IT IS FURTHER ORDERED that this Notice of Forfeiture and Order to Show Cause be forthwith mailed by the Clerk of the Court to each of the persons named above at their last known addresses and to the district attorney.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Judge

[Adopted, effective October 1, 1987.]

**9-308.**

[5-406, 6-406, 7-406, 8-406]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe and

\_\_\_\_\_ (surety)

\_\_\_\_\_ (surety)

ORDER SETTING ASIDE

BAIL BOND FORFEITURE

A hearing having been held by the court upon the order to show cause why a judgment of default should not be entered on the defendant's bail bond:

The court finds that the defendant failed to appear as required.

The court further finds that the following good cause has been shown why the defendant failed to appear:

(check appropriate alternative)

the defendant was incarcerated in

\_\_\_\_\_ located at \_\_\_\_\_

the defendant was hospitalized at the time of the hearing in \_\_\_\_\_ hospital located at \_\_\_\_\_

the defendant failed to appear because: (set forth other good cause) \_

\_\_\_\_\_ The court further finds that the defendant has been brought before this court and is now available for further proceedings in the above case.

The court further finds that a default judgment on the bond has not been entered in the above case.

IT IS ORDERED that the forfeiture previously entered by this court be and the same is hereby set aside.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

Judge

[Adopted, effective, October 1, 1987.]

**9-309.**

[5-406, 6-406, 7-406, 8-406]

[Not to be used for Cash Bonds]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe and

\_\_\_\_\_ (surety)

\_\_\_\_\_ (surety)

DEFAULT JUDGMENT ON BOND

This matter coming on for hearing before this court,

THE COURT FINDS:

The defendant (and the defendant's sureties) previously signed an (appearance) (bail) bond agreeing that the defendant would appear at such times and places as may be required by this court;

The defendant (failed to appear as required) (violated a condition of the bond);

This court served a Notice of Forfeiture and Order to Show Cause on the Clerk of the court forfeiting the defendant's bond more than thirty (30) days prior to this hearing;

The clerk of the court mailed to the defendant (and the defendant's sureties) the Notice of Forfeiture and Order to Show Cause why default judgment should not be entered on the forfeited bond;

The forfeited bond has not been set aside, the defendant has not been surrendered into custody and good cause has not been shown why default judgment should not be entered.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the defendant and his sureties are jointly and severally liable for the payment of the bail bond into this court in full.

IT IS FURTHER ORDERED that if the full amount of the bail bond is not paid into this court within ten (10) days after entry of this order, execution on this judgment will issue against the defendant and the defendant's sureties.

IT IS FURTHER ORDERED that if this judgment is not paid within ten (10) days, the above named sureties shall not execute any new bonds until the full amount of this judgment is paid.

IT IS FURTHER ORDERED that if this judgment is not paid within ten (10) days, a copy of the judgment shall be mailed by the clerk of the court to the superintendent of insurance.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

\_\_\_\_\_

Judge

[Adopted, effective October 1, 1987; as amended, effective August 1, 1989.]



**ANNOTATIONS**

**The 1989 amendment**, effective for cases filed on or after August 1, 1989, added "[Not to be used for Cash Bonds]" near the top of the form.

**9-310.**

[5-406, 6-406, 7-406, 8-406]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_  
(CITY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe and

\_\_\_\_\_ (surety)

\_\_\_\_\_ (surety)

**DEFAULT JUDGMENT ON CASH BOND**

This matter coming on for hearing before this Court,  
THE COURT FINDS:

The defendant (and the defendant's sureties) previously signed an (appearance) (bail) bond agreeing that the defendant would appear at such times and places as may be required by this court;

The defendant (failed to appear as required) (violated a condition of the bond);

This court served a Notice of Forfeiture and Order to Show Cause on the clerk of the court forfeiting the defendant's bond more than thirty (30) days prior to this hearing;

The clerk of the court mailed to the defendant (and the defendant's sureties) the Notice of Forfeiture and Order to Show Cause why default judgment should not be entered on the forfeited bond;

The forfeited bond has not been set aside, the defendant has not been surrendered into custody and good cause has not been shown why default judgment should not be entered.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that judgment be and the same is hereby entered against the defendant (and the defendant's sureties) for the full amount of the cash bond previously deposited with the court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

---

Judge

[Adopted, effective August 1, 1989.]

### 9-311.

[5-401B, 6-401B, 7-401B, 8-401B]

#### IRREVOCABLE LETTER OF CREDIT

To: ( judge, clerk, court administrator)

Address

\_\_\_\_\_ (financial institution) hereby opens its irrevocable letter of credit in your favor by order of \_\_\_\_\_ (bondsman).

This letter of credit is for the account of the \_\_\_\_\_ Court of the (County) (City) of \_\_\_\_\_.

The total amount of credit is \$\_\_\_\_\_.

Drafts will be honored at \_\_\_\_\_ (address) payable on sight.

This irrevocable letter of credit will expire on \_\_\_\_\_.

(Any specifications the financial institution may have concerning the description of the draft to be presented by the court against the letter)

\_\_\_\_\_ (financial institution) hereby agrees with the drawers, endorsers and bona fide holders of drafts drawn under and in compliance with the terms of this irrevocable letter of credit that the letter will be duly honored upon presentation and delivery to drawee of all documents as specified.

---

institution)

(financial

By

---

Signature

Its

---

Title

[Approved effective September 1, 1990.]

## **ARTICLE 4 ARRAIGNMENT AND PREPARATION FOR TRIAL**

### **9-401.**

[5-301, 6-501, 7-501, 8-501]

STATE OF NEW MEXICO

(COUNTY OF

---

(CITY OF

---

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )

(CITY OF \_\_\_\_\_ )

v.

No.

---

John Doe

WAIVER OF COUNSEL

(To be used only if, upon conviction, the defendant may be  
deprived of his liberty)

I understand that I am charged with the following offense(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (*strike inapplicable words or parts*) which (is) (are) (misdemeanor(s)) (felony(ies)) under the law and that if I am found guilty I can be given a severe punishment, including imprisonment in (the New Mexico State Penitentiary) (in the \_\_\_\_\_ (City) (County) jail) and a fine.

I understand that under the Constitutions of the United States and the State of New Mexico, I have the right to be represented by a lawyer at all stages of the criminal case - before trial, at the trial itself, during proceedings to determine what sentence should be imposed if I am found guilty, and any appeal. I understand that if I am unable, without undue hardship, to pay for all or a part of the expense of legal representation from available present income and assets, a lawyer will be furnished for me free of charge.

After reading and understanding all of the above, I hereby give up my rights to a lawyer in this case, and to have a lawyer furnished for me free of charge if I cannot afford one.

DO NOT SIGN THIS FORM IF YOU WANT  
AN ATTORNEY. DO NOT SIGN THIS  
FORM UNLESS YOU HAVE READ IT AND  
UNDERSTAND IT.

\_\_\_\_\_  
\_\_\_\_\_  
Defendant

I find that the defendant, knowingly, voluntarily and intelligently with full awareness of his rights, has waived his right to counsel.

\_\_\_\_\_  
\_\_\_\_\_  
Judge

Date:

\_\_\_\_\_  
Approval for District,  
\_\_\_\_\_

\_\_\_\_\_  
Public Defender)  
appointed counsel)

(District  
(If none, other

**9-401A.**

[6-501, 7-501, 8-501]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_  
(CITY OF

IN THE \_\_\_\_\_ COURT

No.

\_\_\_\_\_  
(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)  
v.  
John Doe

WAIVER OF COUNSEL

(To be used only if, upon conviction, the  
defendant may be deprived of liberty)

I understand that I am charged with the following  
offense(s): \_\_\_\_\_

\_\_\_\_\_ which  
*(strike inapplicable words or parts)*  
(is) (are) (misdemeanor(s)) under the law and that if I am  
found guilty I can be given a severe punishment, including  
imprisonment in (the New Mexico state penitentiary) (the  
\_\_\_\_\_ (city) (county) jail) and a fine.

I understand that under the constitutions of the United  
States and the State of New Mexico, I have the right to be

represented by a lawyer at all stages of the criminal case - before trial, at the trial itself, during proceedings to determine what sentence should be imposed if I am found guilty, and any appeal.

I understand that if I am unable, without undue hardship, to pay for all or a part of the expense of legal representation from available present income and assets, a lawyer will be furnished for me free of charge.

After reading and understanding all of the above, I hereby give up my rights to a lawyer in this case.

**DO NOT SIGN THIS FORM IF YOU WANT AN ATTORNEY. DO NOT SIGN THIS FORM UNLESS YOU HAVE READ IT AND UNDERSTAND IT.**

---

**Defendant**

I find that the defendant, knowingly, voluntarily and intelligently with full awareness of the right to counsel has waived this right.

---

**Judge**  
**Date:**

---

[Adopted, effective September 15, 1997.]

### **ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated July 22, 1997, this form is effective on and after September 15, 1997.

**Compiler's note.** - See *State v. Pino*, 1997-NMCA-001, 122 N.M. 789, 932 P.2d 13 (1997), cert. denied, 122 N.M. 589, 929 P.2d 981 (1997).

### **9-402. Withdrawn.**

### **ANNOTATIONS**

**Compiler's note.** - This form for the record of responses to questions at hearing to determine indigency and for the affidavit of the defendant was withdrawn, effective for cases filed on or after July 1, 1988, by a supreme court order dated March 16, 1988.

### **9-403.**

[District Court - Magistrate Court - Metropolitan Court]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO  
v. NO.

John Doe

ELIGIBILITY DETERMINATION FOR INDIGENT

DEFENSE SERVICES

NAME:

D.O.B.:

AGE: \_\_\_\_\_

AKA: \_\_\_\_\_

SEX: M F

SS#:

ADDRESS: \_\_\_\_\_

PHONE:

CHARGES:

DC# \_\_\_\_\_

MC#

LIVES ALONE: \_\_\_\_\_ WITH: SPOUSE \_\_\_\_\_ CHILDREN \_\_\_\_\_ PARENT

FRIEND \_\_\_\_\_ OTHER \_\_\_\_\_

MARITAL STATUS: SINGLE \_\_\_\_\_ MARRIED \_\_\_\_\_ DIV \_\_\_\_\_ SEP \_\_\_\_\_

WIDOWED \_\_\_\_\_

NUMBER OF DEPENDENTS IN HOUSEHOLD: \_\_\_\_\_

[ ] Defendant is in jail.

[ ] Defendant is not in jail.

**PRESUMPTIVE ELIGIBILITY:**

\_\_\_\_\_ I currently do not receive public assistance.

\_\_\_\_\_ I currently receive the following type of public assistance in \_\_\_\_\_ County:

DEPARTMENT OF HEALTH CASE MANAGEMENT SERVICES (DHMS) \_\_\_\_\_

AFDC \$ \_\_\_\_\_ Food Stamps \$ \_\_\_\_\_ Medicaid \$ \_\_\_\_\_  
 DSI \$ \_\_\_\_\_ Public Housing \$ \_\_\_\_\_

**NET INCOME:**

	<b>SELF</b>		<b>SPOUSE</b>	
Employer's Name .....	_____		_____	
Employer's Phone .....	_____		_____	
Pay period (weekly, every second week, twice monthly, monthly)	_____		_____	
Net take home pay (salary/wages minus deductions required by law)	_____		_____	
Other income sources (please specify) \$ _____	_____		_____	
<b>ONLY</b>				<b>SCREENING USE</b>
<b>TOTAL ANNUAL INCOME</b>	\$ _____	+	_____	=
____/____/____ A				

**ASSETS:**

Cash on hand .....	\$ _____		_____	
Bank accounts .....	\$ _____		_____	
Real estate . Equity	\$ _____		_____	
... Equity	\$ _____		_____	
Motor vehicles Equity	\$ _____		_____	
... Equity	\$ _____		_____	
Other personal property (equity): (describe and set forth equity)	_____		_____	
	\$ _____		_____	
	\$ _____		_____	<b>SCORE</b>
<b>ENING USE ONLY</b>				
<b>TOTAL ASSETS</b>	\$ _____	+	_____	=
____/____/____ B				

**EXCEPTIONAL EXPENSES**

(total exceptional  
expenses of dependents):

Medical expenses (not



covered by insurance) \$ \_\_\_\_\_  
 Court-order support  
 payments/alimony \$ \_\_\_\_\_  
 Child-care payments  
 (e.g. day care) \$ \_\_\_\_\_  
 Other (describe) \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

**SCORE**

**SCREENING USE ONLY**

**TOTAL EXCEPTIONAL  
 EXPENSES**

\$ \_\_\_\_\_

=

\_\_\_\_ / \_\_\_\_ / \_\_\_\_ C

**STATE OF NEW MEXICO**

**COUNTY OF \_\_\_\_\_**

This statement is made under oath. I hereby state that the above information regarding my financial condition is correct to the best of my knowledge. I hereby authorize the screening agent, district defender and the court to obtain information from financial institutions, employers, relatives, the federal internal revenue service and other state agencies.

\_\_\_\_\_  
 \_\_\_\_\_  
 Date Signature of applicant  
 State of \_\_\_\_\_ )  
 ) ss  
 County of \_\_\_\_\_ )  
 Signed and sworn to (or affirmed) before me on  
 \_\_\_\_\_ (date) by  
 \_\_\_\_\_ (name of applicant).

\_\_\_\_\_  
 \_\_\_\_\_  
 Notary  
 (Seal, if any) My commission expires:

I UNDERSTAND THAT IF IT IS DETERMINED THAT I AM NOT INDIGENT, I MAY APPEAL TO THE COURT WITHIN TEN (10) DAYS AFTER THE DATE I AM ADVISED OF THIS DECISION.

\_\_\_\_\_ I wish to appeal.  
 \_\_\_\_\_ I do not wish to appeal.

COLUMN "A" (net income)  
 plus COLUMN "B"  
 (assets) SCREENING USE ONLY  
 minus COLUMN "C" (exceptional  
 expenses) AVAILABLE FUNDS

equals AVAILABLE  
 FUNDS ..... = / \_\_\_\_\_

**INDIGENCY TABLE:**

Household size (self & dependents*)	1	2	3	4
5	6	7	8	
Available funds (annually)	\$9,675	\$12,950	\$16,225	\$19,500
,775	\$26,050	\$29,350	\$35,080	\$22

Add \$2,975.00 for each additional dependent\* member

- \_\_\_\_\_ The applicant is indigent.
- \_\_\_\_\_ The applicant is not indigent.
- \_\_\_\_\_ The applicant (has) (has not) paid the \$10.00 application fee.

\_\_\_\_\_  
 Signature of screening agent

\_\_\_\_\_  
 Title

*\* (Dependent means any person who qualifies as a dependent of the applicant under Section 152 of the Internal Revenue Code. These rates represent one hundred twenty five percent (125%) of the federal poverty guidelines established by the United States Department of Labor in April of 1996.)*

*Based on the above answers and information, I find that the applicant (is) (is not) indigent.*

*(Complete the following only if the court has determined that the applicant is unable to pay the \$10.00 application fee).*

\_\_\_\_\_ I find that the applicant is unable to pay the \$10.00 indigency application fee, and I therefore waive the payment of the \$10.00 application fee.

\_\_\_\_\_  
 Judge or authorized designee

**GUIDELINES FOR DETERMINING ELIGIBILITY**

Pursuant to Section 31-15-7 NMSA 1978, the following guidelines are established for determination of indigency and eligibility for public defender services.

**I. PRESUMPTION OF INDIGENCY**

An applicant is presumed indigent if the applicant is a current recipient of state or federally administered public assistance programs for the indigent: aid to families of dependent children (AFDC), food stamps, medicaid, disability security income (DSI), public assisted housing or Department of Health case management services (DHMS). Proof of assistance must be attached to the application and no further inquiry is

necessary. Home equity, etc. is not to be taken into account if the applicant is a current recipient of one of the six programs described above.

If the interviewer is unable to complete the indigency application or believes the information to be unreliable because of communication or other problems associated with a mental disability of the applicant, indigency will be presumed until the applicant's competency to stand trial and indigency is determined by the public defender or court. If because of the mental disability of the applicant, the interviewer is unable to complete the indigency application or believes the information is unreliable, the Department of Health case management services (DHMS) section should be checked.

## **II. FINANCIAL RESOURCES**

If the applicant is not presumptively indigent, the screening agent shall examine the financial resources of the applicant with consideration given to:

A. Net Income

B. Assets

C. Exceptional Expenses

### **A. Net Income**

The screening agent shall include total salary and wages for the applicant and the applicant's spouse minus deductions required by law (FICA, state and federal withholding). In order to calculate the salary of an individual, the screening agent shall use one of the two methods:

(1) if the individual is presently unemployed, the screening agent shall ask about employment during the twelve (12) months preceding the interview date and calculate the amount of money earned during such twelve (12) months. Proof of this income must be attached to the application; or

(2) if the individual is presently employed, the screening agent shall project the current income for twelve (12) months into the future. Proof of this income must be attached to the application. If the applicant is unemployed and has no income, the screening agent shall inquire as to how the applicant "gets by". Proof of income is not required but responses must be documented on the eligibility form (i.e. eats on soup line, street person, sleeps in car, etc.). If the applicant gets by on "odd jobs", the income from the odd jobs should be noted. Proof of income must be provided (i.e. income tax returns, etc). Zeros will not be accepted for income. If there is no income, an explanation is needed as to why there is no income.

If the applicant does not pay for housing, the fair rental value of the housing shall be included as income. The fair rental value of the applicant's housing may be determined

by the chief public defender or designee. Also to be considered are funds from any other sources including but not limited to social security payments, union funds, veteran's benefits, worker's compensation, unemployment benefits, regular support from any absent family member, public or private employee pensions, or income from dividends, interests, rents, estates, trusts or gifts. If the applicant lives alone but receives rent from a family member, the rent shall be considered as regular support from the applicant's family and shall be included as income.

The income of a spouse must be included in the calculation of income even though the applicant and the applicant's spouse are not living in the same household unless:

- (1) the applicant and the spouse are legally separated; or
- (2) the spouse is an alleged victim of the applicant or a complaining witness against the applicant.

## **B. Assets**

The screening agent shall consider all assets of the applicant and the applicant's spouse which are convertible into cash within a reasonable period of time. Assets include all cash on hand as well as in checking and savings accounts, stocks, bonds, certificates of deposit and tax refunds. All real estate shall be considered in terms of the amounts which could be raised by a loan on the property.

## **C. Exceptional Expenses**

The screening agent shall consider any unusual expenses of the applicant and the applicant's legal dependents which would, in all probability, prohibit the applicant from being able to secure private counsel. The following expenses are not exceptional expenses: rent, food, utilities, gas money, consumer loans and student loans. Exceptional expenses shall include, but not be limited to, costs for medical care, family support obligations and child care payments. In order to be included as an exceptional expense:

- (1) the cost of medical care cannot be covered by insurance;
- (2) family support expense obligations must be court ordered and actually paid on a regular basis; and
- (3) child care must be paid on a regular basis. If the applicant says that child support or child care is paid when the applicant can, the payments do not qualify as exceptional expenses.

The applicant must provide proof of the exceptional expense incurred and proof that payment is being made on a regular basis. If proof is provided, the regular monthly

payment for the exceptional expense is multiplied by twelve (12) months and the calculated amount can be deducted from total income.

Other exceptional expenses shall include: payroll garnishments, internal revenue service claims, court ordered attorney fees or other court ordered payments and funeral expenses not covered by insurance.

### **III. INDIGENCY FORMULA**

The screening agent shall calculate the amount of available funds by adding the total for net income for the household (Column A) together with the total for assets for the household (Column B) and subtracting the total for exceptional expenses (Column C). If the available funds (net income plus assets minus exceptional expenses) are at or below the amounts in the indigency table, the applicant is indigent and is eligible for free representation. If the available funds exceed the amounts in the indigency table, the chief public defender may deem the applicant not to be indigent.

If the applicant does not know the applicant's spouse's income or assets the applicant is presumed not indigent and is not eligible for free representation unless the applicant produces the necessary information within two (2) working days after the interview.

### **IV. APPEAL**

If the applicant is found by the screening agent or the court not to be indigent, the applicant may appeal the decision to the district defender in those districts with public defender offices. If the applicant wishes to appeal the decision of the district defender, the applicant shall appeal to the district court. In those districts without public defender offices, the applicant may appeal directly to the court. If the applicant wishes to appeal a finding that the applicant is not indigent:

(1) in those districts with district public defender offices, the screening agent shall notify the public defender of the appeal;

(2) in those districts without public defender offices, the screening agent shall notify the court of the appeal.

All appeals shall be filed within ten (10) working days after the date of the decision.

### **V. REIMBURSEMENT**

If the applicant is not indigent, but cannot hire a private attorney, the applicant may be represented by the public defender department on a reimbursement basis. In order to qualify for representation by the Public Defender Department on a reimbursement basis, the applicant must obtain statements from three financial institutions: e.g., a bank, a savings and loan, a credit union or a loan company. The statements from the financial institutions must state whether the financial institutions would lend the applicant any

money and if so, how much. After obtaining statements from three financial institutions, the applicant must obtain letters from three private lawyers stating whether they will accept the case on behalf of the applicant. If none of the lawyers will accept the case, the applicant must bring the three financial institution statements and the three lawyer letters to:

- (1) the public defender staff office if the district has a public defender staff office; or
- (2) the court in which the case is pending if the district does not have a public defender staff office.

Upon receipt of the three statements and three letters, the public defender or the court shall find that the applicant is not indigent but is unable to hire a private attorney. In districts with public defender staff offices, the public defender shall accept the applicant's case on a reimbursement basis. In districts without a public defender staff office, the court shall appoint an attorney on contract with the Public Defender Department to represent the applicant on a reimbursement basis.

If the applicant is ineligible for free representation but is in jail and cannot make bail, the applicant shall not be required to provide documentation of inability to hire private counsel as set forth. Any applicant who is ineligible for free representation but is in jail and cannot make bail shall be given public defender representation on a reimbursement basis.

In reimbursement cases, the chief public defender or designee may ask the applicant to sign a contract and a promissory note to pay reimbursement to the State of New Mexico. The reimbursement shall cover legal fees, expert witness fees and private investigation. The legal fees shall be governed by schedule adopted by the Public Defender Department. The expert witness fees and private investigation fees shall be governed by the fees paid by the Public Defender Department.

First payment shall be due thirty (30) days from the date of completion of the contract and note. If the applicant is incarcerated on the date of completion of the contract and note, the date of payment shall be thirty (30) days from the date of release from incarceration.

If the applicant fails to complete a contract and note, the order of appointment with reimbursement shall serve as notice for collection if payments are not made. If this is the case, a copy of the order of appointment and a copy of the application should be sent to the administration office in lieu of contract and note.

## **VI. NEW CHARGES**

If an applicant has applied for public defender services within six (6) months prior to the filing of new charges or a probation violation, completion of a new eligibility determination form is not necessary. A copy of the last eligibility determination form

should be placed in the new file being opened. If an applicant has applied for public defender services more than six (6) months prior to the filing of new charges or a probation violation, completion of a new eligibility determination form is necessary. If less than six (6) months have elapsed but there has been a change in circumstance for the applicant, completion of a new eligibility determination form is necessary.

[Adopted, effective September 24, 1986; as amended, effective August 1, 1989; December 1, 1993; February 14, 1997.]

### ANNOTATIONS

**Cross-references.** - For duty of public defender to adopt indigency standard, see 31-15-7 NMSA 1978.

For indigency determination, see 35-15-12 NMSA 1978.

**The 1989 amendment,** effective for cases filed on or after August 1, 1989, rewrote this form to the extent that a detailed analysis would be impracticable.

**The 1993 amendment,** effective December 1, 1993, rewrote the form and guidelines to such an extent that a detailed comparison would be impracticable.

**The 1997 amendment,** effective February 14, 1997, revised the Indigency Table and added the second sentence in the italicized instruction following the Indigency Table.

### 9-403A.

[Sections 34-6-46, 34-8A-11 and 35-5-8 NMSA 1978]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_ )  
\_\_\_\_\_  
  
IN THE \_\_\_\_\_ COURT  
  
STATE OF NEW MEXICO  
v. \_\_\_\_\_ No. \_\_\_\_\_  
\_\_\_\_\_  
John Doe

ORDER OF APPOINTMENT

This matter having come before the court, the court finds:  
(please check appropriate box or boxes)

THE COURT FINDS THAT:

- the defendant is incarcerated.
- the defendant is not incarcerated.

THE COURT FURTHER FINDS THAT:

- the defendant is indigent and unable to obtain counsel.
- the defendant is not indigent, but is unable to obtain counsel.

IT IS THEREFORE ORDERED THAT:

the Public Defender Department is appointed to represent the defendant in the above-entitled case.

\_\_\_\_\_, an attorney on contract with the Public Defender Department, shall represent the defendant in the above-entitled case.

the defendant shall reimburse the State of New Mexico in an amount of no less than \$ \_\_\_\_\_ for legal representation and related expenses.

IT IS FURTHER ORDERED THAT:

- the application fee is waived.
- the application fee is required.

\_\_\_\_\_  
(Magistrate Judge)  
(District Judge)

CERTIFICATE OF MAILING

I certify that I mailed a copy of this order to the above-named defendant at \_\_\_\_\_ (set forth address), and to the public defender on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Clerk) (Judge )

\_\_\_\_\_  
Date  
[Adopted, effective July 1, 1988; as amended, effective January 1, 1996.]

**ANNOTATIONS**

**The 1996 amendment**, effective January 1, 1996, added "THE COURT FINDS THAT" heading and added the alternatives under that heading; added "THE COURT FURTHER FINDS THAT:" heading and deleted "desires counsel" following "indigent" in



the second alternative under that heading; substituted "the Public Defender Department is appointed to represent" for "Public Defender shall represent" in the first alternative of the order; substituted "no less than" for "not less than" in the third alternative in the order; and added the "IT IS FURTHER ORDERED THAT" heading and added the alternatives under that heading.

**9-404.**

[6-507, 7-507, 8-507]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

\_\_\_\_\_  
(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

TRANSFER ORDER

*(please check appropriate box or boxes)*

The defendant having entered a plea of not guilty by reason of insanity.

An issue having been raised as to the mental competency of the defendant to stand trial.

I hereby ORDER that the defendant be transferred to the district court for further proceedings.

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date

*(Attach copy of Complaint; any Warrants issued; any Appearance Bond or Bail Bond; Order Specifying Conditions of Release; all*

*pleadings, including any record of proceedings made by the Court; and any exhibits.)*

**9-405.**

[5-303]

STATE OF NEW MEXICO

COUNTY OF

---

IN THE DISTRICT COURT

STATE OF NEW MEXICO

v.

No.

---

John Doe

WAIVER OF ARRAIGNMENT

ENTRY OF PLEA OF NOT GUILTY

I understand that I am charged with the following criminal offense or offenses under the law of the State of New Mexico:

---

\_\_\_\_\_ (list all offenses charged)

I understand that I am entitled to personally appear before the district court and enter my plea to the crime or crimes charged and to have my rights explained to me.

I hereby acknowledge receipt of a copy of the complaint, indictment or information which I have read and had explained to me by defense counsel. I understand the crime or crimes charged and the penalty provided by law for the crime or crimes charged.

I further understand that: I have a right to trial by jury; I have a right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if I cannot afford one; I have a right to confront the witnesses against me and to cross-examine them as to the truthfulness of their testimony; I have a right to

present evidence on my own behalf and to have the state compel witnesses of my choosing to appear and testify; I have a right to remain silent and that any statement made by me may be used against me; I have a right to trial by jury and that all jurors must agree on my guilt of the crime charged beyond a reasonable doubt for me to be found guilty.

After reading and understanding the above, I hereby give up my right to personally appear before the district court for arraignment and I hereby enter a plea of not guilty to all criminal offenses charged in the above-styled cause.

\_\_\_\_\_  
Date  
of Defendant  
Approved: I have explained to the defendant his right to  
\_\_\_\_\_ personally appear before  
the district court to enter a  
District Judge plea of not guilty and to have his rights  
explained to  
him by the judge and I am satisfied that  
he under-  
stands the waiver of this right.

\_\_\_\_\_  
Defense Counsel  
De

**9-405A.**

[6-501, 7-501]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_  
John Doe

WAIVER OF FIRST APPEARANCE

(for cases not within magistrate or  
metropolitan court trial jurisdiction)

I understand that I am charged with the following criminal offense or offenses under the law of the State of New Mexico:

\_\_\_\_\_ (list all  
\_\_\_\_\_ offenses charged)

I understand that I am entitled to personally appear before the (magistrate) (metropolitan) court to have my rights explained to me.

I hereby acknowledge receipt of a copy of the complaint, indictment or information which I have read and had explained to me by defense counsel. I understand the crime or crimes charged and the penalty provided by law for the crime or crimes charged.

I further understand that: I have a right to bail; I have a right to trial by jury; I have a right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if I cannot afford one; I have the right to remain silent and understand that any statement made by me may be used against me; and I have a right to a preliminary hearing.

After reading and understanding the above, I hereby give up my right to personally appear before the above court for a first appearance to have my rights explained and bail set or reviewed.

\_\_\_\_\_  
Name of  
Defendant

Date

I have explained to the defendant his right to personally appear before the above court and have his rights explained to him by the judge and I am satisfied that he understands the waiver of this right.

\_\_\_\_\_  
Defense  
Counsel

Date

[Approved effective September 1, 1990.]

**9-406.**

[5-303, 6-502, 7-502, 8-502]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_

John Doe

GUILTY PLEA PROCEEDING

The defendant personally appearing before me, I have ascertained the following facts, noting each by initialing it.

Judge's  
Initial

\_\_\_\_\_ 1. That the defendant understands the charges set forth in the (complaint) (information) (indictment).

\_\_\_\_\_ 2. That the defendant understands the range of possible sentence for the offenses charged, from a suspended sentence to a maximum of \_\_\_\_\_.

\_\_\_\_\_ 3. That the defendant understands the following constitutional rights which the defendant gives up by pleading (guilty) (guilty but mentally ill):

\_\_\_\_\_ (a) the right to trial by jury, if any;

\_\_\_\_\_ (b) the right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one;

\_\_\_\_\_ (c) the right to confront the witnesses against him

and to cross-examine them as to the truthfulness of their testimony;

\_\_\_\_\_ (d) the right to present evidence on his own behalf, and to have the state compel witnesses of his choosing to appear and testify;

\_\_\_\_\_ (e) the right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.

\_\_\_\_\_ 4. That the defendant wishes to give up the constitutional rights of which the defendant has been advised.

\_\_\_\_\_ 5. That there exists a basis in fact for believing the defendant is (guilty) (guilty but mentally ill) of the offenses charged and that an independent record for such factual basis has been made.

\_\_\_\_\_ 6. That the defendant and the prosecutor have entered into a plea agreement and that the defendant understands and consents to its terms. (Indicate "NONE" if a plea agreement has not been signed.)

\_\_\_\_\_ 7. That the plea is voluntary and not the result of force, threats or promises other than a plea agreement.

\_\_\_\_\_ 8. That under the circumstances, it is reasonable that the defendant plead (guilty) (guilty but mentally ill).

\_\_\_\_\_ 9. That the defendant understands that a conviction may have an effect upon the defendant's immigration or naturalization status.

On the basis of these findings, I conclude that the defendant knowingly, voluntarily and intelligently pleads (guilty) (guilty but mentally ill) to the above charges and accept such plea. A copy of this affidavit shall be made a part of the record in the above-styled case.

\_\_\_\_\_  
District  
Judge

Date

CERTIFICATE BY DEFENDANT

I certify that the judge personally advised me of the matters noted above, that I understand the constitutional rights that I am giving up by pleading (guilty) (guilty but mentally ill) and that I desire to plead (guilty) (guilty but mentally ill) to the charges stated.

---

Defendant  
Subscribed and sworn to  
before me this \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_\_

---

Clerk, Notary or Other Officer Authorized to Administer Oaths  
The undersigned attorney hereby certifies that he has conferred with his client with reference to the execution of this affidavit and that he has explained in detail its contents.

---

De  
fense Counsel  
[As amended, effective September 1, 1990.]

### ANNOTATIONS

**The 1990 amendment**, effective for cases filed on or after September 1, 1990, substituted "the defendant" for "he" in Facts 3, 3(b), and 4; substituted "the right" for "his right" in Facts 3(a) through 3(e); inserted "is" preceding "(guilty)" in Fact 5; added Fact 9; and substituted "such plea" for "his plea" at the end of the next-to-last sentence.

### 9-406A.

[6-502, 7-502, 8-502]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

---

John Doe

GUILTY PLEA PROCEEDING

(Jail sentence to be imposed)

The defendant personally appearing before me, I have ascertained the following facts:

1. That the defendant understands the charges set forth in the complaint and agrees to plead [guilty] [no contest] to the following charges:

\_\_\_\_\_

\_\_\_\_\_.

2. That the defendant understands the range of possible sentences for the offense charged.

3. That the defendant has been advised and understands the following constitutional rights which the defendant gives up by pleading (guilty) (no contest):

(a) the right to trial;

(b) the right to trial by jury, if any;

(c) the right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one;

(d) the right to confront the witnesses against the defendant and to cross-examine them as to the truthfulness of their testimony;

(e) the right to present evidence and to have the court compel witnesses to appear and testify;

(f) the right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.

4. That the defendant wishes to give up those constitutional rights of which the defendant has been advised.

5. That there is a factual basis for the plea.

6. That the plea is voluntary and not the result of force, threats or promises (other than a plea agreement).



7. That under the circumstances, it is reasonable that the defendant plead (guilty) (no contest).

8. That the defendant understands that a conviction may have an effect upon the defendant's legal status or rights.

*(check if applicable)*

**Plea agreement.** That the defendant and the prosecutor have entered into a plea agreement and that the defendant understands and consents to its terms.

*(for use only in the Metropolitan Court)*

**Conditional plea.** The court has approved the defendant pleading guilty to the above charges conditioned upon the defendant's appeal on the issue of \_\_\_\_\_ *(set forth pre-trial issue).*

*(for use only in the Metropolitan Court)*

The defendant understands that the plea of guilty is conditioned upon the defendant filing an appeal on the issue of \_\_\_\_\_ *(describe pre-trial motion upon which appeal will be based)* and that the plea may be withdrawn at the defendant's option only if the defendant wins the defendant's appeal on this issue.

On the basis of these findings, I conclude that the defendant knowingly, voluntarily and intelligently pleads (guilty) (no contest) to the specified charges and accept such plea.

\_\_\_\_\_  
\_\_\_\_\_  
Judge                      Date

\_\_\_\_\_  
The judge advised me of the matters noted above. I understand the constitutional rights that I am giving up and plead (guilty) (no contest) to the charges specified above.

\_\_\_\_\_  
\_\_\_\_\_  
Defendant

\_\_\_\_\_  
I certify that prior to the defendant's entry of a plea of guilty or no contest in this case2:

I have discussed this case with my client in detail and I have advised my client of my client's constitutional rights and all possible defenses.

I explained the consequences of a plea of guilty or a plea of no contest.

In my opinion the plea of (guilty) (no contest) was voluntarily and understandingly made.

---

Attorney for defendant

USE NOTES

1. This form is to be used if the defendant is to be incarcerated in jail. For other cases, a shorter form may be used.

2. To be completed if the defendant has not signed a written waiver of counsel.

[Adopted, effective September 1, 1990; May 1, 1997.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated March 7, 1997, this form is effective May 1, 1997.

**9-407.**

STATE OF NEW MEXICO                      CITY OF \_\_\_\_\_

**IN THE MUNICIPAL COURT**

CITY OF \_\_\_\_\_

v.

No. \_\_\_\_\_

---

John Doe

PLEA OF NO CONTEST

The defendant in the above-styled cause hereby enters an appearance in the above-styled cause and enters a plea of no contest on the following understandings, terms and conditions:

1. that he has a right to trial and gives up this right;
2. that he has a right to be represented by an attorney and

gives up this right;

3. that he has a right to present evidence in his own behalf and have the City compel witnesses of his choosing to appear and testify and gives up this right;

The defendant understands that a plea of NO CONTEST has the same effect as a plea of guilty in this court.

The defendant hereby enters a plea of NO CONTEST and agrees to pay a fine of \_\_\_\_\_ (\$\_\_\_\_\_).

\_\_\_\_\_

Defendant

**9-408.**

[5-304]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE DISTRICT COURT

STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_

John Doe

PLEA AND DISPOSITION AGREEMENT

The State of New Mexico and the defendant hereby agree to the following disposition of this case:

Plea: The defendant agrees to plead (guilty) (no contest) (guilty but mentally ill) to the following offenses:

\_\_\_\_\_ Terms: On the following understandings, terms and conditions.

1. That the following disposition will be made of the charges: \_\_\_\_\_

---

2. That the following charges will be dismissed, or if not yet filed, shall not be brought against the defendant:

---

3. That this agreement, unless rejected or withdrawn, serves to amend the complaint, indictment, or information to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.

4. Unless this plea is rejected or withdrawn, that the defendant hereby gives up any and all motions, defenses, objections or requests which he has made or raised, or could assert hereafter, to the court's entry of judgment against him and imposition of a sentence upon him consistent with this agreement.

5. That, if after reviewing this agreement and any presentence report the court concludes that any of its provisions are unacceptable, the court will allow the withdrawal of the plea, and this agreement shall be null and void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceedings shall be admissible as evidence against the defendant in any criminal proceedings.

I understand that a conviction may have an effect upon my immigration or naturalization status.

I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading (guilty) (no contest) (guilty but mentally ill) I will be giving up my right to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this agreement, I am granted probation, a suspended sentence or a deferred sentence by the court, the terms and conditions thereof are subject to modification in the event that I violate any of the terms or conditions imposed.

---

---

Date

Defendant

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

---

---

Defense

Counsel

Date

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

---

---

Prosecutor

Date

Approved:

---

---

---

strict Judge

Plea and Disposition Agreements should not be used to close the original case and to open another case.

[As amended, effective September 1, 1990.]

### ANNOTATIONS

**The 1990 amendment**, effective for cases filed on or after September 1, 1990, inserted "I understand that a conviction may have an effect upon my immigration or naturalization status." following Term 5.

**9-408A.**

[6-502, 7-502, 8-502]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
(CITY OF

\_\_\_\_\_  
IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe

PLEA AND DISPOSITION AGREEMENT

The (state) (county) (city) and the defendant hereby agree to the following disposition of this case:

**Plea:** The defendant agrees to plead (guilty) (no contest) to the following offenses:

\_\_\_\_\_  
**Terms:** On the following understandings, terms and conditions:

1. That the following disposition will be made of the charges: \_\_\_\_\_

\_\_\_\_\_  
2. That the following charges will be dismissed, or if not yet filed, shall not be brought against the defendant:

\_\_\_\_\_  
3. That this agreement, unless rejected or withdrawn, serves to amend the complaint to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.

4. Unless this plea is rejected or withdrawn, that the defendant hereby gives up any and all motions, defenses, objections or requests which the defendant has made or raised, or could assert hereafter, to the court's entry of judgment and imposition of a sentence consistent with this agreement.

5. That, if after reviewing this agreement and any presentence report the court concludes that any of its provisions are unacceptable, the court will allow the withdrawal of the plea, and this agreement shall be null and void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceedings shall be admissible as evidence against the defendant in any criminal proceedings.

**(For use only in the Metropolitan Court  
check and complete if applicable)**

**Conditional plea**

[ ] I understand that the plea of guilty that I have entered is conditioned upon my appeal. If I file an appeal on the issue of \_\_\_\_\_ (*describe pre-trial motion upon which appeal will be based*) and I win my appeal on this issue I may withdraw my plea.

I understand that a conviction may have an effect upon my immigration or naturalization status.

I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading (guilty) (no contest) I will be giving up my right to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this agreement, I am granted probation, a suspended sentence or a deferred sentence by the court, the terms and conditions thereof are subject to modification in the event that I violate any of the terms or conditions imposed.

\_\_\_\_\_  
Date Defendant

I have discussed this case with my client in detail and I have advised my client of my client's constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

\_\_\_\_\_  
Defense counsel Date

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

\_\_\_\_\_  
Prosecutor Date

Approved:

---

Judge

USE NOTE

*Plea and disposition agreements should not be used to close the original case and to open another case.*

[Adopted, effective May 1, 1997.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated March 7, 1997, this form is effective May 1, 1997.

**9-408B. Reserved.**

**9-408C.**

[5-304]

STATE OF NEW MEXICO

COUNTY OF

---

IN THE DISTRICT COURT

(STATE OF NEW MEXICO)

v.

No.

---

John Doe

CONDITIONAL PLEA

I, \_\_\_\_\_ (*name of defendant*), with the approval of the court, am entering a plea of (guilty) (no contest) (guilty but mentally ill) to

---

The maximum penalties for the above charges are (*set forth offense and statutory sentence*):

Count 1.



---

- Count 2.

---

- Count 3.

---

- I understand my plea is conditioned upon the filing of an appeal on the issue of \_\_\_\_\_ (*describe pretrial motion upon which appeal will be based*).

I understand that, if the judge approves my plea of (guilty) (no contest) (guilty but mentally ill), a judgment and sentence will be entered and that I may appeal on the issue specified above in the manner provided by the Rules of Appellate Procedure.

I understand that if I win my appeal on the issue specified above, that I may withdraw my plea of (guilty) (no contest) (guilty but mentally ill).

I understand that a conviction may have an effect upon my immigration or naturalization status.

I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading (guilty) (no contest) (guilty but mentally ill), if my plea is not later withdrawn, I will be giving up my right to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination. I agree to enter my plea as indicated above on the terms and conditions set forth herein.

---

Date

---

Defendant

#### DEFENSE COUNSEL REVIEW

I have reviewed the plea and disposition agreement with my client. I have discussed this case with my client and I have advised my client of my client's constitutional rights and possible defenses.

---

Defense counsel

---

Date

#### PROSECUTOR APPROVAL

I have reviewed and approve this plea and disposition agreement and find that it is appropriate and consistent with the best interests of justice.

\_\_\_\_\_  
Prosecutor Date  
Approved:  
\_\_\_\_\_  
District Judge

**Effective dates.** - Pursuant to a court order dated November 14, 1997, this form is effective on and after January 15, 1998.

**9-409.**

[Adopted, effective January 15, 1998.]

[6-504, 7-504, 8-504]

STATE OF NEW MEXICO

\_\_\_\_\_  
COUNTY  
\_\_\_\_\_  
MUNICIPALITY No. \_\_\_\_\_  
\_\_\_\_\_  
COURT

v.  
\_\_\_\_\_

MOTION FOR PRODUCTION

(Plaintiff) (Defendant) asks the Court to order that the other party produce for inspection and copying the following items of evidence:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] Request has been made of the other party and the other party has failed to produce the evidence.

[ ] This inspection and copying is necessary in the preparation for trial of this case because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, 19

\_\_\_\_\_  
(Plaintiff) (Defendant)  
(A copy of this must be mailed or delivered to the other party  
or attorney for the other party.)

**9-410.**

[6-504, 7-504, 8-504]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_ )  
\_\_\_\_\_  
\_\_\_\_\_  
(CITY OF \_\_\_\_\_ )

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_ )  
v. No.

\_\_\_\_\_  
John Doe

ORDER FOR PRODUCTION

It appearing to the court that the defendant has requested  
production of certain tangible evidence in the possession of or  
available to the prosecution and that good cause exists  
therefor;

IT IS ORDERED that the prosecution produce for inspection  
and copying at \_\_\_\_\_ (address) at  
\_\_\_\_\_ o'clock (a.m.) (p.m.) on \_\_\_\_\_ ,  
19\_\_\_\_\_, the following records, papers,  
documents or other tangible evidence in its possession or  
available to it: \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

(describe briefly)

---

Judge

(If you fail to obey this order you may be held in contempt of this court and punished by fine and imprisonment.)

[As amended, effective January 1, 1996.]

### ANNOTATIONS

**The 1996 amendment**, effective January 1, 1996, substituted the parenthetical at the end for "Failure to obey this order may constitute a contempt of court".

### 9-411.

[6-505, 7-505, 8-505]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

### NOTICE OF PRETRIAL CONFERENCE

TO:

\_\_\_\_\_  
(Names of parties ordered to appear)

Please take notice that a pretrial conference will be held in the above-entitled action on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.), at the \_\_\_\_\_ court located at \_\_\_\_\_

\_\_\_\_\_, at which time the court will attempt to clarify the pleadings and will consider such other matters as may aid in the disposition of the case.

You are hereby ordered to appear at the above time and place.

\_\_\_\_\_  
Date  
Judge

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this notice to both parties.

Date of Mailing:

19\_\_\_\_\_  
\_\_\_\_\_  
(J

udge) (Clerk)

[As amended, effective January 1, 1995.]

**ANNOTATIONS**

**The 1995 amendment**, effective January 1, 1995, added the certificate of mailing.

**9-412.**

[5-501, 5-502]

STATE OF NEW MEXICO  
OF \_\_\_\_\_

COUNTY

IN THE DISTRICT COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

CERTIFICATE OF DISCLOSURE OF INFORMATION

I hereby certify that all information required to be produced pursuant to Rule 5-501 or 5-502 has been produced except for the following: 1

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I acknowledge that I have a continuing duty to disclose any additional information to which the (defendant) (prosecution) is entitled under Rule 5-501 or 5-502.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Prosecutor)  
(Defendant)

1 If information is not disclosed pursuant to Paragraph E of Rules 5-501, the reason for the failure to disclose such information shall be given by the prosecutor.

**9-413.**

[5-501, 5-502]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE DISTRICT COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

SUPPLEMENTAL CERTIFICATE OF DISCLOSURE OF INFORMATION

I certify that the following information specifically  
excepted from the original certificate of disclosure of  
information has been furnished to the (defendant) (prosecution):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I acknowledge that the filing of this supplemental  
certificate does not diminish my continuing duty to disclose  
additional information.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Prosecutor)  
(Defendant)

**9-414.**

[6-506, 7-506, 8-506]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )  
(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

ORDER DISMISSING CRIMINAL COMPLAINT

WITH PREJUDICE

This matter having been regularly brought on for hearing upon the motion of the defendant that the above-styled cause be dismissed with prejudice for failure of the (State) (City) to prosecute and the Court finding that the defendant was not responsible for the failure to complete the disposition of the criminal proceeding.

It is hereby ordered that the complaint filed in the above-styled cause be dismissed with prejudice.

\_\_\_\_\_  
Judge

**9-415.**

[6-506, 7-506, 8-506]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

NOTICE OF DISMISSAL OF CRIMINAL COMPLAINT

TO: \_\_\_\_\_ (Defendant)

You are hereby notified that the complaint filed in the above-styled cause is dismissed without prejudice.

\_\_\_\_\_  
or Complainant

\_\_\_\_\_  
Prosecutor



It is hereby ordered that the complaint filed in the above-styled cause be dismissed without prejudice.

---

Judge

**9-416.**

[6-603, 7-603, 8-603]

STATE OF NEW MEXICO

(COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

STIPULATED DISCOVERY ORDER

The (state) (city) and the defendant stipulate to the following order:

1. That should the materials discovered under this order reasonably be calculated to lead to other material which is discoverable evidence, the (state) (city) will assist the defendant in obtaining such evidence.

2. All disputed matters not covered by this order will be decided by the court.

3. The (state) (city), through the \_\_\_\_\_, is ordered to produce:

[ ] a complete copy of the police report and officer's statement;

[ ] a list of all witnesses to be called whose names and

addresses do not appear on the police report;

the BAT card;

the defendant's record;

4. The (state) (city) (police) (county sheriff) is ordered to produce:

the calibration and maintenance records of the machine used to test defendant's breath for a period of \_\_\_\_\_ days before and \_\_\_\_\_ after the date of the offense;

the name and address of the manufacturer of the machine;

the conversion ratio used by the machine;

the date of purchase and the date of initial certification of the machine;

the instrument log for the machine used in defendant's test covering the shift during which the test was given;

any information known about radio frequency testing involving this machine.

IT IS ORDERED THAT:

1. The (district) (city) attorney's office send an endorsed copy of this order to the (state) (city) (police) (county sheriff) and to defendant's attorney.

2. The (state) (city) (police) (county sheriff) schedule an appointment with defendant's attorney within fifteen (15) days after the date of service of this stipulated discovery order.

3. Defendant's attorney shall attend the scheduled appointment or reschedule within three (3) days of notification of the appointment.

4. The (state) (city), through its agencies, is ordered to make available the following items for inspection with copying at defendant's expense.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. For purpose of the six-month rule, time will run against the party which causes the appointment to be later than three

(3) days before the trial setting.

6. The parties comply with the terms of the stipulated discovery order as set forth above.

---

Judge

The above stipulation and order  
is hereby agreed to:

---

(District) (City) Attorney

---

Attorney for Defendant

Information needed to expedite compliance:

Date of offense:

---

Approximate time:

---

Police report number:

---

BAT instrument no.:

---

Trial setting date:

---

Time:

---

Judge:

---

[Adopted, effective October 1, 1987.]

## **ARTICLE 5 TRIALS**

### **9-501.**

[All courts]

STATE OF NEW MEXICO

(COUNTY OF

---

(CITY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_.)

v.

No.

\_\_\_\_\_

John Doe

NOTICE OF TRIAL

TO: \_\_\_\_\_ Prosecution  
\_\_\_\_\_ Defendant

YOU ARE HEREBY NOTIFIED that this action will come on for trial before the Honorable \_\_\_\_\_, at the \_\_\_\_\_ Court located at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ .m.

Date of this notice:

\_\_\_\_\_

\_\_\_\_\_

(J

udge) (Clerk)

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this notice to \_\_\_\_\_ (name) at the address indicated,

Date of Mailing:

19 \_\_\_\_\_

udge) (Clerk)

(J

[As amended, effective January 1, 1995.]

**ANNOTATIONS**

**The 1995 amendment, effective January 1, 1995, added the certificate of mailing.**

**9-502.**

[5-605, 6-602, 7-602]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

WAIVER OF TRIAL BY JURY - MISDEMEANOR OFFENSES

Instructions: the purpose of this form is to advise you of your right to trial by jury and to allow you to give up that right if you so choose. READ THE ENTIRE FORM CAREFULLY BEFORE SIGNING IT.

RIGHT TO TRIAL BY JURY

I understand that I am charged with the crime of \_\_\_\_\_

\_\_\_\_\_ is a misdemeanor under the law of New Mexico, and that if I am found guilty I can be punished by imprisonment, fine or other penalty.

I understand that I have a right to trial by jury and that all jurors must agree on my guilt of the crime beyond a reasonable doubt for me to be found guilty.

I understand that once I have made the decision to give up my right to jury trial, I may change my mind *only* with the permission of the court.

CERTIFICATION AND WAIVER

After reading and understanding the above, I hereby give up my right to trial by jury and consent to have my guilt or innocence determined by a judge.

---

Date  
Defendant

I have explained to the defendant his right to trial by jury and I am satisfied that the defendant understands the waiver of this right.

---

Defense Counsel

De

I consent to waiver of trial by jury in this case.

---

Prosecutor

Approved:

---

Judge

**9-503.**

[6-606, 7-606, 8-602]

STATE OF NEW MEXICO

(COUNTY OF

---

(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )  
(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

SUBPOENA

(City of \_\_\_\_\_ )  
(State of New Mexico ) ss.  
County of \_\_\_\_\_ )  
TO:

\_\_\_\_\_  
GREETINGS:

You and each of you are hereby commanded to appear before the  
Honorable \_\_\_\_\_ at the \_\_\_\_\_ Court located at  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_, at \_\_\_\_\_ o'clock (a.m.) (p.m.) then and there to  
testify in the above-entitled cause there pending, on the part  
of the \_\_\_\_\_, and this do you under penalty of law.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_

\_\_\_\_\_  
(Judg

\_\_\_\_\_  
e) (Clerk)

CERTIFICATE OF SERVICE

I certify that I served the above subpoena on  
\_\_\_\_\_ (name of person served) on the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_\_, by delivering a copy to him.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ title (if any)

**9-504.**

[6-606, 7-606, 8-602]

STATE OF NEW MEXICO  
\_\_\_\_\_)  
\_\_\_\_\_)

(COUNTY OF  
  
(CITY OF

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )  
(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

SUBPOENA TO PRODUCE DOCUMENT OR OBJECT

TO:

\_\_\_\_\_

GREETINGS:

You are hereby commanded to appear in the \_\_\_\_\_ Court for the (County of \_\_\_\_\_ (City of \_\_\_\_\_) located at \_\_\_\_\_ (address of court) on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock (a.m.) (p.m.) and bring with you and produce at the time and place set forth in this subpoena the following:

\_\_\_\_\_

(describe document or object to be produced) then and there to testify on the part of the \_\_\_\_\_, and this you must do under penalty of law.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Clerk) (Judge)

**9-505.**

[6-607, 7-607, 8-603]

\_\_\_\_\_  
\_\_\_\_\_  
(Insert name of laboratory)

REPORT OF CHEMICAL ANALYSIS  
BREATH AND BLOOD ALCOHOL  
CONTROLLED SUBSTANCE

Date Received

\_\_\_\_\_  
Lab. No.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INFORMATION IN THIS BLOCK TO BE FILLED IN BY ARRESTING OFFICER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SEND LAB ANALYSIS REPORT TO:**  
Name:

---

---

(Complete Name of Your Agency)

Address:

---

(Use Complete Address)

---

---

---

**SEND COPY TO DONOR:**

Donor's Identification:

Name:

---

(Last)            (First)            (Middle)  
Address:

---

(Street/Box Number)

---

(City)            (State)            (Zip)

Soc. Sec. No.

---

Dr. License No.

---

Date of Birth

---

Sex \_\_\_\_\_ Weight

---

Place of Arrest

---

County

---

Arresting Officer's Identification

Name:

---

Department:

---

County:

---

Certificate No.

---

Date:

---

Arrest Time:

A.M. - P.M.

---

Time Observation Started:

A.M. - P.M.

---

Time Breath Sample Drawn:

A.M. - P.M.

---

Remarks:

---

Reason Suspect Stopped:

Erratic Driving

---

Accident

---

Other

---

Blood Sample Requested?

---

Blood Sample Drawn?

---

Time Drawn

\_\_\_\_\_ A.M. -  
P.M.

By

\_\_\_\_\_  
Arrest Witnessed By:

\_\_\_\_\_  
Signature

Where were Tests or Samples Obtained?

**Screening Test Lab Test**

In Station

— In Vehicle

— On Street

— In Hospital

Accident

— No. of Cars

Injuries: \_\_\_\_\_ Major

Minor

---

---

Signature of Arresting Officer

---

---

INFORMATION IN THIS BLOCK TO BE FILLED IN BY DRAWER OF ANY BLOOD  
SAMPLE

I hereby certify that on the date, time and place indicated  
above, I drew blood samples from the above named donor and that  
I marked the samples with the donor's name.

---

---

Signature of Arresting  
Officer

Employer Name

---

---

Title

Date

---

---

LABORATORY USE ONLY

---

---

---

---

CERTIFICATE OF RECEIVING CLERK

Specimen of  Breath  Blood  Other \_\_\_\_\_ Received  
from \_\_\_\_\_

In Person  Via Mail  Other

Seal intact: Yes  No  If No, explain

Other Remarks:

I certify that on the date shown in the "Date received" blank above, I received the sample which accompanied this report and followed the procedures set out on the reverse hereof, and that the statements in this block are correct.

\_\_\_\_\_  
Receiving Clerk

Re

CERTIFICATE OF ANALYST

The seal of this sample was:

Not received intact \_\_\_\_\_

Received intact and the seal broken in the Laboratory

RESULT OF ANALYSIS

**Breath Sample:**

\_\_\_\_\_ % (W/V) Equivalent  
Blood Alcohol Concentration

in Sample

**Blood Sample:**

\_\_\_\_\_ % (W/V) Blood  
Alcohol Concentration

in Sample

**Other Sample:**

---

Sample Substance	Result
REMARKS:	

---



---

I certify that I followed the procedures set out on the reverse of this report, and that the statements in this block are correct. If alcohol was tested, the percent by weight of alcohol in the sample is based on the grams of alcohol in one hundred cubic centimeters of blood.

Date of Analysis: \_\_\_\_\_ Analyzed by:

\_\_\_\_\_  
Signature of Analyst

Signature

**CERTIFICATE OF SUPERVISOR**

I certify to the facts stated on the reverse of this report, and based on this report I certify that the established procedure has been followed in the handling and analysis of the sample in this case.

\_\_\_\_\_  
Supervisor

**CERTIFICATE OF MAILING**

I certify that on this date I mailed a legible copy of this

report to the donor, in accordance with the mailing procedure set out on the reverse of this report.

\_\_\_\_\_,  
19\_\_\_\_

\_\_\_\_\_  
Labora

tory Employee

PROCEDURE

(To be printed on the reverse side of report)

1. The laboratory named on the front of this report is a laboratory certified by the scientific laboratory division of the health department to perform blood and alcohol tests. The agency has established formal procedures for receipt and handling of controlled substance, breath and blood samples to assure integrity of the sample, a formal procedure for conduct and report of the chemical analysis of the samples by the \_\_\_\_\_ (specify) method, and quality control procedures to validate the analyses. The quality control procedures include semi-annual proficiency testing by an independent laboratory. The procedures have the general acceptance and approval of the scientific community, including the medical profession, and of the courts, as a means of assuring a chemical analysis of a controlled substance, breath or blood sample that accurately discloses the percentage of alcohol contained in the blood.

2. When a controlled substance, breath sample or blood sample is received at the laboratory from a law enforcement agency for an alcohol analysis, the receiving clerk examines the sample container and:

(a) determines that it is a standard container of a kit approved by the director of the laboratory;

(b) determines that the container is accompanied by this report, with the portion of the form marked for use by the law enforcement officer duly completed;



(c) determines that the donor's name and the date that the sample was taken have already been entered on this report and on the container and that they correspond;

(d) makes a log entry of the receipt of the sample and of any irregularity in the condition of the container or its seals;

(e) places an accession number (laboratory number) and the date of receipt on the log, on the container, and on this report, so that each has the same accession number and date of receipt;

(f) completes and signs the portion of this report marked for use by the receiving clerk, making specific notations as to any unusual circumstances, discrepancies, or irregularities in the condition or handling of the sample up to the time that the container and report are delivered to the analysis laboratory;

(g) personally places the container with this report attached, in a designated secure cabinet for the analyst.

3. When the controlled substance, breath or blood sample is received by the analyst, the analyst examines the sample container and this report and:

(a) makes sure that the accession number on the container corresponds with the accession number on this report;

(b) makes sure that the analysis is conducted on the sample which accompanied this report at the time that the report was received by the analyst;

(c) conducts a chemical analysis of the sample and enters the results on this report;

(d) retains the sample container and the raw data from the analysis;

(e) completes and signs the portion of the report that is marked for use by the analyst, noting any circumstance or condition which might affect the integrity of the sample or otherwise affect the validity of the analysis;

(f) delivers this report to the supervisor of the analysts.

4. The supervisor checks the calculations of the analysis, examines this report, signs it, and delivers it to the receiving

clerk for distribution.

5. An employee of the agency mails a copy of this report to the donor at the address shown on this report, by depositing it in an outgoing mail container which is maintained in the usual and ordinary course of business of the laboratory. The employee then signs the certificate of mailing to the donor, and then mails the original of this report to the submitting law enforcement agency.

6. The analyst who conducted the analysis in this case meets the qualifications required by the director of this laboratory as sufficient to qualify one to properly conduct such analyses. The supervisor of analysts is also qualified to conduct such analyses.

[As amended, effective October 1, 1991.]

### ANNOTATIONS

**The 1991 amendment**, effective for cases filed on or after October 1, 1991, inserted "chemical" and "controlled substance" in the report heading; inserted "donor" following "send copy to", added the lines for street/box number, city, state, and zip; substituted references to samples drawn for references to samples taken; substituted "Tests or Samples Obtained" for "Tests taken"; added the material between the line for the signature of the arresting officer and the "Certificate of Receiving Clerk"; in the "Certificate of Analyst", deleted "chemistry" preceding "Laboratory", added the lines for "other sample", and inserted "if alcohol was tested"; and, in the "Procedure" portion, rewrote the first sentence and inserted "controlled substance" throughout.

### 9-506.

[6-608, 7-608]

OFFICE OF THE MEDICAL INVESTIGATOR

CASE DISPOSITION AND REPORT CERTIFICATION

Remains Received:

---

---

---

---

Received from:

---

Officer

---

Dept.  
Received by:

---

Investigator

Date received:

Medical

---

The remains were held in the exclusive custody and control of the Office of Medical Investigator from the date of receipt through the date of return:

Disposition of remains:      YES                      NO

---

---

Returned by:

---

Investigator

Date returned:

Medical

---

CERTIFICATION

In accordance with Paragraph A of Rule 11-902 of the Rules of Evidence, the attached report is a record of the Office of the Medical Investigator, is duly authenticated under the seal of such office to be admitted into evidence without extrinsic evidence of authenticity and the contents of the report are true and correct to the best of my knowledge.

---

---

Investigator  
[SEAL]

Medical

**9-507.**

[6-608, 7-608]

LABORATORY

CASE DISPOSITION AND REPORT CERTIFICATION

**Evidence received:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Received from:**

\_\_\_\_\_ (name of person)  
\_\_\_\_\_ (title)  
\_\_\_\_\_ (name of entity)

**Received by:**

\_\_\_\_\_ (name of person)  
\_\_\_\_\_ (title)  
\_\_\_\_\_ (name of laboratory

receiving evidence)

**Date received:** \_\_\_\_\_

\_\_\_\_\_ This evidence was held in the exclusive custody and control of the \_\_\_\_\_ (name of laboratory).

(complete only applicable alternative)

[ ] The evidence was retained at the above named laboratory.

[ ] The evidence was:

(if this alternative is applicable complete all of the following)

Returned to:

\_\_\_\_\_ (name of person)  
\_\_\_\_\_ (title)  
\_\_\_\_\_ (name of entity)

Returned by:

\_\_\_\_\_ (name of person)  
\_\_\_\_\_ (title)

Date returned: \_\_\_\_\_

CERTIFICATION

The attached report is a record of \_\_\_\_\_ (name of laboratory), and the contents of the report are true and correct to the best of my knowledge.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
Date

[As amended, effective January 1, 1997.]

### ANNOTATIONS

**The 1997 amendment**, effective January 1, 1997, substituted "laboratory" for "NMSP Crime Lab" in the form heading and throughout the form, rewrote the "received by" and "received from" items, added the alternatives relating to retaining or returning the evidence, and rewrote the certification.

### 9-508.

[5-611, 6-610, 7-610]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

#### ORDER DECLARING MISTRIAL UPON JURY DISAGREEMENT

The jury having deliberated a reasonable time and having reported to the court that they are unable to agree upon a verdict herein and the court having polled the jury in accordance with (Rule 5-611) (Rule 6-610) (Rule 7-610) of the Rules of Criminal Procedure;

IT IS THEREFORE ORDERED, as follows:

1. The jury found the defendant not guilty of the charges of

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and it is adjudged that the defendant is not guilty of these charges.

2. A mistrial based on jury disagreement is declared as to the \_\_\_\_\_  
\_\_\_\_\_ (common name of count or highest degree of offense upon which the jury could not agree).

3. The power to retry the charges upon which the mistrial is declared is reserved.

4. The jury is discharged from the further consideration of this cause.

\_\_\_\_\_  
\_\_\_\_\_  
Judge

[As amended, effective October 1, 1996.]

**ANNOTATIONS**

**The 1996 amendment**, effective October 1, 1996, added "6-610, 7-610" in the authority bracket at the top of the form and in the body of the form, substituted " \_\_\_\_\_ Court" for "District Court" in the caption, substituted "jury found the defendant not" for "defendant is not" and "the defendant" for "he" in Paragraph 1, and deleted "District" preceding "Judge" under the signature line.

**9-509.**

[6-602, 7-602]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE MAGISTRATE COURT

STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_  
John Doe

DEMAND FOR JURY TRIAL  
PETTY MISDEMEANOR OFFENSES

Pursuant to Section \_\_\_\_\_ NMSA 1978, I demand a trial by jury in the above-styled cause.

\_\_\_\_\_  
Date

Defendant

\_\_\_\_\_  
Prosecutor

[Approved effective September 1, 1990.]

**9-510.**

[6-601, 7-601, 8-601]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

ORDER PERMITTING TRANSCRIPTION OF TESTIMONY

AGREEMENT OF PARTY TO LIMIT USE OF RECORDING

Upon request of \_\_\_\_\_ (*name of person with a claim arising out of same transaction or occurrence*)

giving rise to above criminal proceedings), this court permits a transcription to be made of the testimony in the above proceeding.

It is ordered that any transcription of testimony in this case be used only in civil proceedings when permitted by Paragraph A of Rule 1-032 of the Rules of Civil Procedure for the District Courts and criminal proceedings when permitted by Paragraph N of Rule 5-503 of the Rules of Criminal Procedure for the District Courts. The transcription shall not be broadcast or reproduced except as specifically permitted by this order.

It is further ordered that the person permitted to make a transcription of testimony make the transcription available to all parties in this case.

It is further ordered that any person who receives a transcription of testimony of the proceedings shall not use it or permit its use by others, except as specifically provided by this order.

\_\_\_\_\_  
Date Judge

AGREEMENT TO LIMIT USE OF TRANSCRIPTION OF PROCEEDINGS

I agree to these terms and I understand that if I violate this order I may be held in contempt of court and punished by fine and imprisonment.

SIGNATURES OF ALL PERSONS REQUESTING COPIES OF TRANSCRIPTION

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date

[Adopted, effective September 2, 1997.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated June 16, 1997, this form is effective for cases filed on and after September 2, 1997.



# ARTICLE 6 JUDGMENT AND APPEAL

## 9-601.

[6-701, 7-701, 7-702, 8-701, 8-702]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
CITY OF  
\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
John Doe

### JUDGMENT AND SENTENCE

(COMMITMENT OR PROBATION) 1

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the defendant appeared in person and was represented by attorney \_\_\_\_\_, (set forth name of attorney).

\_\_\_\_\_ (name of officer or prosecutor) appeared on behalf of the (State) (City).

(Complete one of the following)

#### 1. PLEA

(Plea of not guilty)

The defendant having entered a plea of NOT GUILTY and the (court) (jury)

2 finding the defendant GUILTY of the following charge(s)

\_\_\_\_\_  
\_\_\_\_\_  
(Plea of guilty)

The defendant having entered a plea of:

[ ] guilty, the court so finds the defendant guilty of the

following  
charges:

---

---

---

no contest, the court accepts the plea as an admission of guilt for the purposes of this action only, of the following charges:

---

---

---

**2. FINDINGS OF THE COURT DWI CASES**

*(complete if applicable)*

THE COURT FINDS:

This conviction is the defendant's  
 first  second  third  fourth or more conviction for driving while under the influence.

**3. JUDGMENT OF COURT**

IT IS ADJUDGED that the defendant is guilty of (such) (the following) charges and convicted. *(If the defendant has been found not guilty of one or more charges, set forth crimes defendant has committed)*

---

---

---

IT IS ADJUDGED that the defendant is not guilty of the following charges: \_\_\_

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that:

*(check and complete only applicable boxes)*

the defendant be committed to the (county) (city) (jail) (detention center) \_\_\_\_\_ *(specify any other place)* for \_\_\_\_\_ days with \_\_\_\_\_ days suspended for a jail term of \_\_\_\_\_ days for the crime of

\_\_\_\_\_;  
for \_\_\_\_\_ days with \_\_\_\_\_ days suspended for a jail term of \_\_\_\_\_ days for the crime of

\_\_\_\_\_;  
such sentences to run (consecutively) (concurrently).

Work release is (authorized) (not authorized).

Work release to be served on weekends.

The defendant is ordered to report to \_\_\_\_\_ by no later than

---

\_\_\_\_\_ (a.m.) (p.m.) the \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_  
[ ] The defendant shall pay to the (magistrate) (metropolitan) (municipal) court the following fine(s):

\$ \_\_\_\_\_ for \_\_\_\_\_  
\$ \_\_\_\_\_ for \_\_\_\_\_

[ ] The defendant shall pay to the (magistrate) (metropolitan) (municipal) court the following costs and fees:

(complete applicable costs and fees) 3  
court costs \$ \_\_\_\_\_ automation fee  
\$ \_\_\_\_\_  
corrections fee \$ \_\_\_\_\_ laboratory  
fee \$ \_\_\_\_\_  
traffic safety  
fee \$ \_\_\_\_\_ judicial education fee  
\$ \_\_\_\_\_  
DWI prevention  
fee \$ \_\_\_\_\_ screening & treatment  
costs \$ \_\_\_\_\_  
other \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_  
Total fees and costs \$ \_\_\_\_\_  
(complete applicable parts of the following if the sentence is to be deferred or suspended)

[ ] The above sentence is hereby:  
[ ] deferred  
[ ] suspended

on the following terms and conditions:  
[ ] (supervised) (unsupervised) probation for \_\_\_\_\_ days with the following special conditions:

[ ] the defendant will enter and participate in:  
[ ] an (alcohol) (drug) treatment program  
[ ] (alcohol) (drug) screening and complete counseling or other treatment as required by the screening program  
[ ] a first offender program  
[ ] driver improvement school  
[ ] petty larceny school  
[ ] \_\_\_\_\_ (other)  
[ ] the defendant performs \_\_\_\_\_ (hours) (days) of community service as follows:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] the defendant makes restitution to (set forth name of person or entity)  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in the amount of \$ \_\_\_\_\_ on or before the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

[ ] defendant pays all court costs and fees including: laboratory fees; automation fee; traffic safety fee; corrections fee; DWI school fee; alcohol evaluation screen fees; and counseling fees;

[ ] IT IS FURTHER ORDERED THAT the defendant's cash bond is to be:

[ ] returned to defendant  
[ ] applied to the payment of court costs, court fees and fines

\_\_\_\_\_

[ ] THE DEFENDANT IS ORDERED TO REPORT TO  
[ ] PROBATION SERVICES  
[ ] EDUCATIONAL SERVICES  
[ ] (SPECIFY OTHER) \_\_\_\_\_

ON OR BEFORE \_\_\_\_\_ (A.M.) (P.M.) THE \_\_\_\_\_ DAY OF \_\_\_\_\_,

\_\_\_\_\_

*(complete if applicable)*

[ ] COMMITMENT. THE DEFENDANT IS HEREBY COMMITTED to the custody of the (county) (city) in \_\_\_\_\_ (set forth place of detention) for imprisonment for a period of \_\_\_\_\_ (days) (months), subject to credit for time spent in confinement while awaiting the outcome of these proceedings.

IT IS ORDERED that a copy of this judgment and commitment be delivered to an authorized full-time salaried law enforcement officer, and that this copy be the order of commitment of the defendant.

**FAILURE TO COMPLY**

FAILURE TO REPORT OR PAY COSTS OR FINES WILL RESULT IN A BENCH WARRANT FOR THE DEFENDANT'S ARREST.

**APPEAL**

**YOU ARE HEREBY ADVISED THAT YOU MAY HAVE A NEW TRIAL IN THE DISTRICT COURT BY FILING A NOTICE OF APPEAL WITHIN FIFTEEN (15) DAYS FROM THE DATE OF ENTRY OF THIS JUDGMENT AND SENTENCE. YOU ARE FURTHER ADVISED THAT IF YOU APPEAL YOU MUST OBTAIN A TRIAL DATE BEFORE THE DISTRICT COURT WITHIN SIX (6) MONTHS OF THE DATE OF THE FILING OF THE NOTICE OF APPEAL. IF YOUR CASE IS NOT TRIED BY THE DISTRICT COURT WITHIN SIX (6) MONTHS YOUR APPEAL WILL BE DISMISSED AND THIS CONVICTION WILL BE AFFIRMED.**

APPEAL BOND \$ \_\_\_\_\_.

OTHER CONDITIONS OF RELEASE.

If the defendant files a notice of appeal, the following additional conditions of release are hereby approved pending appeal to the district court:

---

Dated \_\_\_\_\_, \_\_\_\_\_

---

Judge

#### USE NOTES

1. *This form may be used in the magistrate, metropolitan and municipal courts. This form, Form 9-602 and Form 9-603 should be modified as appropriate. Provisions in Form 9-603 may be used as part of this form.*

2. *This form should be modified by municipal courts to eliminate this alternative as there is no right to trial by jury in municipal court.*

3. *Not all fees and costs are applicable to all courts of limited jurisdiction. See: Section 35-14-11 NMSA 1978 for municipal corrections fee; Section 66-8-102 NMSA 1978 for assessment of costs for court ordered alcohol or drug screening and treatment program; Section 31-12-7 NMSA 1978 for magistrate, metropolitan court and municipal court crime laboratory fee; and Section 35-6-1 NMSA 1978 for magistrate and metropolitan court corrections fee and automation fees and other fees and costs to be assessed upon conviction.*

[As amended, effective September 1, 1989; January 1, 1997.]

#### ANNOTATIONS

**The 1989 amendment**, effective for cases filed on or after September 1, 1989, rewrote this form to the extent that a detailed comparison would be impracticable.

**The 1997 amendment**, effective January 1, 1997, rewrote Paragraph 3 relating to judgment of court, added the provision for appeal bond and other conditions of release, and made stylistic changes throughout the form, and added Use Note 1.

#### 9-602.

[5-201, 6-201, 7-201, 8-202]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

John Doe

JUDGMENT AND SENTENCE<sup>1</sup>

This case came before the court on \_\_\_\_\_,  
19\_\_\_\_\_. The defendant appeared:

with an attorney       pro se       waiver  
signed

The defendant entered a plea of:

guilty       no contest  
 not guilty and was tried by       court      [  
] jury  
 jury waived

The court finds the defendant GUILTY of:

\_\_\_\_\_ and NOT GUILTY of:  
\_\_\_\_\_

**SENTENCE AND  
COMMITMENT:** \_\_\_\_\_

**FEES<sup>2</sup>:** The defendant shall pay the following fees:

docket       judicial education      [  
]      correction  
 automation       laboratory      [  
]      traffic safety  
 DWI prevention       screening & treatment costs  
 other \_\_\_\_\_<sup>2</sup>

**Total fees:** \_\_\_\_\_

**YOU MAY APPEAL THIS DECISION TO THE DISTRICT COURT BY FILING A  
NOTICE OF APPEAL WITHIN FIFTEEN (15) DAYS FROM THE DATE OF ENTRY  
OF THIS JUDGMENT.**

Appeal bond \$ \_\_\_\_\_

Dated

---

Judge

#### USE NOTES

*(Do not print use note on pre-printed forms)*

1. *This form may be used in the magistrate, metropolitan and municipal courts. This form, Form 9-601 and Form 9-603 should be modified as appropriate. Provisions in Form 9-603 may be used as part of this form.*

2. *Not all fees and costs are applicable to all courts of limited jurisdiction. See: Section 35-14-11 NMSA 1978 for municipal corrections fee; Section 66-8-102 NMSA 1978 for assessment of costs for court ordered alcohol or drug screening and treatment program; Section 31-12-7 NMSA 1978 for magistrate, metropolitan court and municipal court crime laboratory fee; and Section 35-6-1 NMSA 1978 for magistrate and metropolitan court corrections fee and automation fees and other fees and costs to be assessed upon conviction.*

[Adopted, effective January 1, 1995; as amended, effective January 1, 1997.]

#### ANNOTATIONS

**The 1997 amendment**, effective January 1, 1997, added the blank for the screening & treatment costs in the Fees Item.

**Effective dates.** - Pursuant to a court order dated September 30, 1994, this form is effective January 1, 1995.

**Compiler's note.** - Pursuant to a court order dated April 24, 1989, the former form, relating to judgment and sentence (commitment or probation), is withdrawn for cases filed on or after September 1, 1989. For comparable form, see Rule 9-601.

#### **9-603.**

[6-701, 6-702, 7-701, 7-702, 8-701, 8-702]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
CITY OF

IN THE \_\_\_\_\_ COURT

CITY OF \_\_\_\_\_  
STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_  
John Doe

FINAL ORDER ON CRIMINAL COMPLAINT 1

(If the sentence involves imprisonment or probation, use  
Criminal Form 9-601)

**1. PLEA**

*(Plea of not guilty)*

The defendant having entered a plea of NOT GUILTY, a jury was

- (a) *(check one)*             impaneled
- ] waived
- (b) *(check one)*             the jury finding
- ] the court finding
- (c) *(check one)*             the defendant
- ] the defendant

GUILTY

NOT GUILTY

of the following charge(s):

\_\_\_\_\_  
*(Plea of guilty)*

The defendant having entered a plea of guilty, the court  
so finds the  
defendant guilty of the following charges:

\_\_\_\_\_  
 The defendant having entered a plea of nolo contendere,  
the court accepts the plea as an admission of guilt, for the  
purposes of this action  
only, of the following charges:



---

---

---

**2. JUDGMENT OF COURT**

IT IS ADJUDGED THAT the defendant is  
 GUILTY  
 NOT GUILTY  
of such charges.

**3. SENTENCE OF COURT**

IT IS THE SENTENCE of this court that the defendant pay a fine to the (State of New Mexico) (City of \_\_\_\_\_) in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) as follows:

\$ \_\_\_\_\_ for \_\_\_\_\_  
\$ \_\_\_\_\_ for \_\_\_\_\_  
\$ \_\_\_\_\_ for \_\_\_\_\_

**4. COURT COSTS AND FEES**

Court costs of \_\_\_\_\_ dollars (\$\_\_\_\_\_) are assessed against the defendant as follows:

court costs \$ \_\_\_\_\_ automation fee  
\$ \_\_\_\_\_  
corrections fee \$ \_\_\_\_\_ other \$ \_\_\_\_\_  
(complete only if applicable)

IT IS FURTHER ORDERED that the defendant's cash bond is to be:  
 returned to defendant  applied to the payment of court costs, court fees  
 applied to the payment of court costs, court fees and fines).

THE DEFENDANT IS ORDERED to pay the above fines and costs on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

**FAILURE TO COMPLY**

FAILURE TO REPORT OR PAY COSTS OR FINES WILL RESULT IN A BENCH WARRANT FOR THE DEFENDANT'S ARREST.

**APPEAL BOND \$ \_\_\_\_\_.**

**OTHER CONDITIONS OF RELEASE.**

If the defendant files a notice of appeal, the following additional conditions of release are hereby approved pending appeal to the district court:

---

---

---

Date

Judge

1 Since there is no right to a trial by jury in the municipal court, this form must be modified for use in the municipal courts.

2 Not all fees and costs are applicable to all courts of limited jurisdiction. See: Section 35-14-11 NMSA 1978 for municipal corrections fee; and Section 35-6-1 NMSA 1978 for magistrate and metropolitan court corrections fee and automation fees and other fees and costs to be assessed upon conviction. Other fees would include the Metropolitan Court mediation fee (35-6-1 NMSA 1978).

3 It is recommended that this form not be pre-printed by the Administrative Office of the Courts. It may be used as guidance in modifying Form 9-602.

[As amended, effective September 1, 1989; January 1, 1995; January 1, 1997.]

### ANNOTATIONS

**The 1989 amendment**, effective for cases filed on or after September 1, 1989, added the Item 4 and Item 4 designations; in Item 3, added the language beginning "(City of "; and, in Item 4, added the language beginning "as follows".

**The 1995 amendment**, effective January 1, 1995, added Use Note 3.

**The 1997 amendment**, effective January 1, 1997, added the provision for appeal bond and other conditions of release.

### 9-603A.

[6-701, 7-701, 8-701]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No.

\_\_\_\_\_  
John Doe

FINAL ORDER ON CRIMINAL COMPLAINT

(Deferred Sentence)

This court having previously found the defendant guilty and having deferred sentencing of the defendant on the following charge(s)

\_\_\_\_\_

\_\_\_\_\_

(set forth only charges for which a deferred sentence was entered)

It now appearing to the court that the defendant has fulfilled all of the terms and conditions of the deferred sentence.

IT IS THEREFORE ORDERED that the criminal charges set forth above be and the same are hereby dismissed.

Dated \_\_\_\_\_, 19\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Judge

[Adopted, effective September 1, 1989.]

**9-604. Withdrawn.**

**ANNOTATIONS**

**Compiler's note.** - Pursuant to a court order dated April 24, 1989, this form, relating to final order on criminal complaint, is withdrawn for cases filed on or after September 1, 1989. For comparable form, see Rule 9-603 NMRA.

**9-605.**

[6-701, 7-701]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

John Doe

AGREEMENT TO PAY

I have been convicted of \_\_\_\_\_ and assessed \$ \_\_\_\_\_ fine and \$ \_\_\_\_\_ fees and costs. I am unable to pay the (fine), (fees) (and) (costs) at this time. I promise

[to pay in the following manner:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ]

[and] [or]

[in lieu of the above (fines) (fees) (and) (costs) to perform \_\_\_\_\_ hours of community service] 1.

I fully understand that if I fail to [pay the fine, fees and costs] [or] [perform community service] in accordance with this agreement:

I may be prosecuted for contempt of court.

If a bench warrant is issued for failure to pay fines or fees or for failure to perform community service, an additional \$100.00 administrative fee may result.

I may be confined in jail.

\_\_\_\_\_  
Date \_\_\_\_\_ Defe  
ndant  
Witness: \_\_\_\_\_

USE NOTE

1. Section 31-12-3 NMSA 1978 authorizes the judge to permit payment of fine, fees or costs in installments or if the defendant is unable to pay to order community service in lieu of all or any part of the fine, fees and costs. Credit toward the fine, fees or costs must be given at the prevailing federal hourly minimum wage rate.

[As amended, effective November 1, 1995.]

ANNOTATIONS

The 1995 amendment, effective November 1, 1995, rewrote the form.

**9-605A.**

[6-701, 7-701, 8-701]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

John Doe

COMMUNITY SERVICE WORK PROGRAM

It is hereby ordered that \_\_\_\_\_ (*name of defendant*) complete \_\_\_\_\_ hours of community service.

\_\_\_\_\_  
Date

\_\_\_\_\_

Judge

TO: \_\_\_\_\_ (*agency*)

After completion of community service, please sign and date this form and return it to the court to indicate that the order has been completed. If the defendant does not successfully complete community service, please contact the court immediately.

Date completed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Ti

tle

[Adopted, effective November 1, 1995.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated September 12, 1995, this form is effective November 1, 1995.

**9-606.**

[8-701]

STATE OF NEW MEXICO

CITY OF

\_\_\_\_\_

IN THE MUNICIPAL COURT

CITY OF \_\_\_\_\_

v.

No.

\_\_\_\_\_

John Doe

AGREEMENT TO PAY

I have been convicted of \_\_\_\_\_ and assessed \$ \_\_\_\_\_ fine. I am unable to pay the (fine), (fees) (and) (costs) at this time. I promise to pay in the following manner:

\_\_\_\_\_

\_\_\_\_\_

[and] [or]

[in lieu of the above (fines) (fees) (and) (costs) to perform \_\_\_\_\_ hours of community service] 1.

I fully understand that if I fail to [pay the fine, fees and costs] [or] [perform community service] in accordance with this agreement:

I may be held in contempt of this court.

I may be confined in jail.

Dated:

\_\_\_\_\_

Defendant

Witness: \_\_\_\_\_

USE NOTE

1. Section 31-12-3 NMSA 1978 authorizes the judge to permit payment of fine, fees or costs in installments or if the

*defendant is unable to pay to order community service in lieu of all or any part of the fine, fees and costs. Credit toward the fine, fees or costs must be given at the prevailing federal hourly minimum wage rate.*

[As amended, effective November 1, 1995.]

### ANNOTATIONS

**The 1995 amendment**, effective November 1, 1995, rewrote the form.

### 9-607.

[6-703, 7-703, 8-703]

STATE OF NEW MEXICO  
IN THE DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT  
\_\_\_\_\_ COUNTY  
Dist. Court No.

\_\_\_\_\_  
(Mag.) (Met.) (Mun.) No.

\_\_\_\_\_  
(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

\_\_\_\_\_, Defendant(s)

### NOTICE OF APPEAL

(Defendant) (The state) (The City of \_\_\_\_\_)  
appeals to the district court from the (judgment) (final order)  
of the (magistrate) (metropolitan) (municipal) court entered in  
the above cause on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The (defendant) (state) (city) requests a trial setting  
within six months from the date of filing of this notice of  
appeal.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Address (print)

\_\_\_\_\_  
City, state and zip code (print)

\_\_\_\_\_  
Telephone number  
The following is to be completed prior to filing with the clerk of the district court.  
Proof of service is required for each party.

CERTIFICATE OF SERVICE BY ATTORNEY

I certify that I caused a copy of this notice of appeal to be served on the following persons or entities by (delivery) (mail) on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:

(1) \_\_\_\_\_  
(Name of party)

\_\_\_\_\_  
(Address)

(2) \_\_\_\_\_  
(Name of party)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Attorney for appellant

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of signature

AFFIDAVIT OF SERVICE OF A PARTY

**(To be completed by a party who is not represented by an attorney)**

I declare under penalty of perjury that a copy of this notice of appeal was served on the following persons or entities by (delivery) (mail) on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:

(1) \_\_\_\_\_  
(Name of party)



\_\_\_\_\_  
(Address)

(2)

\_\_\_\_\_  
(Name of party)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Signature of appellant

Date of signature

Subscribed and sworn to

before me this \_\_\_\_\_ day

of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Judge, notary or other officer  
authorized to administer oaths

\_\_\_\_\_  
Official title

#### USE NOTE

*(A copy of this notice of appeal must be filed with the court from which this appeal is being taken after it has been endorsed by the district court.)*

*A copy of the judgment or final order appealed from, showing the date of the judgment or final order, shall be attached to this notice of appeal at the time it is filed in the district court.*

[As amended, effective May 1, 1986, October 1, 1991; January 1, 1995; January 1, 1997.]

#### ANNOTATIONS

**The 1991 amendment**, effective for cases filed on or after October 1, 1991, added "Defendant hereby requests a trial setting within six months from the date of filing of this notice of appeal".

**The 1995 amendment**, effective January 1, 1995, inserted "(The State of New Mexico)" and substituted "appeals" for "files for appeal" in the first paragraph, inserted "(State)" and deleted "hereby" preceding "requests" in the second paragraph, and substituted "(Appellant) (Appellant's attorney)" for "(Defendant) (Defendant's attorney)" below the signature line at the end of the notice.

The 1997 amendment, effective January 1, 1997, rewrote the form and added the second paragraph of the Use Note.

**9-608.**

[6-703, 7-703, 8-703]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_  
(CITY OF

\_\_\_\_\_  
IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO )

(CITY OF \_\_\_\_\_ )

No.

\_\_\_\_\_  
v.

John Doe

District Court No.

TITLE PAGE OF TRANSCRIPT OF CRIMINAL PROCEEDINGS

1. Defendant's name or defendant's attorney's name:

\_\_\_\_\_  
*(If defendant represented by an attorney, check applicable):*

2. Defendant is represented by an attorney:

[ ] Appointed

[ ] Retained

[ ] Public defender.

3. Address of defendant or defendant's attorney

\_\_\_\_\_  
4. Attached: *(check appropriate boxes.)*

[ ] COMPLAINT

[ ] OTHER PAPERS AND PLEADINGS

[ ] JUDGMENT OR FINAL ORDER *(with date of filing noted thereon)*

[ ] EXHIBITS  
[ ] TRANSCRIPT OF THE PROCEEDINGS (*if appeal on record*)  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Clerk)

[As amended, effective January 1, 1997.]

### ANNOTATIONS

**The 1997 amendment**, effective January 1, 1997, deleted "and certificate" from the form heading and rewrote the form.

**9-609.**

[5-702]

### DEFENDANT'S WAIVER OF APPEAL

I, \_\_\_\_\_, (*Defendant*) being duly sworn on my oath, state that I have been advised by my trial attorney that I have the right to appeal and that if I do not have the money to pay for an appeal, I am entitled to proceed with an appeal at state expense, including the services of an attorney to represent me on the appeal. Understanding my rights, I do not desire to appeal the final order of the court and hereby voluntarily, knowingly and intelligently waive my right to appeal.

\_\_\_\_\_  
Defendant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Witnessed:

\_\_\_\_\_  
Attorney for  
Defendant

Notary Public, Judge  
Officer Authorized  
Administer Oaths

or Other  
to

**9-610.**

[66-5-39]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_  
CITY OF

IN THE \_\_\_\_\_ COURT

COUNTY OF \_\_\_\_\_

CITY OF \_\_\_\_\_

v.

No.

\_\_\_\_\_  
John Doe

VEHICLE IMMOBILIZATION ORDER

This matter coming before the Court pursuant to Section 66-5-39 NMSA 1978 upon the defendant's conviction of driving a motor vehicle with a suspended or revoked driver's license:

IT IS THEREFORE ORDERED that the defendant's vehicle, (State of New Mexico) ( \_\_\_\_\_ ) license number \_\_\_\_\_ be immobilized by the (sheriff of this county) (city police) at the defendant's expense for a period of thirty (30) days at such place as may be designated by the (sheriff) (city police).

Vehicle Description:

\_\_\_\_\_  
\_\_\_\_\_  
Dated \_\_\_\_\_, 19\_\_\_\_\_  
\_\_\_\_\_

Judge

RETURN

The undersigned, being a duly certified law enforcement officer, hereby certifies that the vehicle described in the above order was immobilized for a period of thirty (30) days as follows:

Place and manner of immobilization

\_\_\_\_\_

\_\_\_\_\_

Beginning date \_\_\_\_\_ Ending date \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature of officer  
Title

Upon good cause shown, this order is rescinded.  
Dated \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_

Judge

[Adopted, effective September 1, 1989; as amended, effective November 1, 1995.]

**ANNOTATIONS**

**The 1995 amendment**, effective November 1, 1995, rewrote the form.

**Recompilations.** - The above form was adopted as Rule 9-611 in 1989 but was recompiled as Rule 9-610 in 1990.

**9-611.**

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

CITY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SSN: \_\_\_\_\_ -

DOB: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_.  
John Doe and

\_\_\_\_\_, (surety)  
\_\_\_\_\_, (surety)

ORDER TO SHOW CAUSE

TO: \_\_\_\_\_ (defendant)  
\_\_\_\_\_ (address)

YOU ARE HEREBY ORDERED to appear before the Honorable

\_\_\_\_\_  
\_\_\_\_\_,  
\_\_\_\_\_ judge, at the  
\_\_\_\_\_ court located at  
\_\_\_\_\_, on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_\_, at the hour of \_\_\_\_\_  
o'clock \_\_\_\_\_.m., to show cause, why you should not be held in  
contempt of court for:

- failure to pay fine(s), fee(s) (and) (court costs) in the amount of \$ \_\_\_\_\_
- failure to register for school
- failure to comply with the first offender program
- failure to comply with probation
- failure to perform community service hours
- failure to appear

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
This hearing may be cancelled if you immediately pay all fines, fees and costs and show the clerk that you have complied with all court orders.

FAILURE TO APPEAR WILL RESULT IN A WARRANT FOR YOUR ARREST AND AN ADDITIONAL \$100.00 ADMINISTRATIVE WARRANT FEE.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Judge

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this order to \_\_\_\_\_ (name) at the address indicated above.

Date of Mailing:

19 \_\_\_\_\_

(J

udge) (Clerk)

USE NOTE

*(Use Note is not to be printed on pre-printed forms)*

*This form may be modified to meet the needs of individual courts.*

[Effective October 1, 1991; as amended, effective January 1, 1995.]

**ANNOTATIONS**

**The 1995 amendment**, effective January 1, 1995, rewrote the form to such an extent that a detailed comparison would be impracticable.

**Recompilations.** - Former Rule 9-611, relating to vehicle impoundment order, was recompiled as Rule 9-610 in 1990.

**ARTICLE 7  
SPECIAL PROCEEDINGS**

**9-701.**

[5-802]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_)

IN THE DISTRICT COURT

\_\_\_\_\_,  
(Full Name of Prisoner)

Petitioner,

For Official Use Only

v.

No.

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\_\_\_\_\_ (To be  
supplied by the  
(Name of warden, jailor Clerk of the Court)  
or other person having  
power to release the  
petitioner)

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

Instructions - Read Carefully

You should exercise care to assure that all information provided in this form is true and correct. Make sure that all necessary documents are attached, or explain why the documents are not being included. If you are seeking free process, complete Rule 9-403.

Finally, you must complete the certificate of service and mail or otherwise serve copies of this petition on the respondent and the district attorney in the county in which the petition is filed. You must file the original petition and one copy with the Clerk of the District Court. You should keep a copy for your own records.

1. \_\_\_\_\_ (name of person in custody) is imprisoned or otherwise restrained at \_\_\_\_\_ (name of facility and county of detention) by \_\_\_\_\_ (name and title of person having custody).

2. This petition

( ) seeks to vacate, set aside or correct an illegal sentence or order of confinement (i.e., ineffective assistance of counsel, illegal search and seizure, involuntary confession, or other matters relating to the trial or sentence the confined person received).

( ) challenges confinement or conditions of confinement or matters other than the sentence or order of confinement. (This applies only to matters arising after the confined person



arrived at the institution, i.e., county jail confinement, mental hospital confinement, detention facility confinement, good time credit, misconduct report, prison due process violation or parole).

3. State concisely the grounds and law, or other legal authorities on which the confined person bases the claim:

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4. Have the grounds being raised in this petition been raised previously in any other proceeding? If so, explain the result. If not, explain why not:

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5. Briefly describe the relief requested:

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6. State the nature of the court proceeding resulting in the confinement (i.e., criminal prosecution, civil commitment, etc.), the case name, docket number, name of judge, and name and

location of the court in which the proceeding was held:

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7. State the date of the final judgment, order or decree for confinement and a summary of its terms:

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8. Attach a copy of the judgment, order or decree. If not, explain why you are not doing so.

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9. Was the conviction the result of:

- \_\_\_\_\_ Guilty plea
- \_\_\_\_\_ No Contest plea (nolo [nolo] contendere)
- \_\_\_\_\_ Finding of guilty by judge or jury

10. Was the confined person represented by an attorney during the proceedings resulting in the confinement?

- \_\_\_\_\_ Yes
- \_\_\_\_\_ No

11. If you answered "yes" to (10), list the name and address of each attorney who represented the confined person:

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12. Was an appeal taken?

- \_\_\_\_\_ Yes
- \_\_\_\_\_ No

13. If you answered "yes" to (12), list:

(a) The name of each court to which an appeal was taken, the case name and docket number, and date: (Attach a copy of each opinion or order)

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(b) A summary of the grounds upon which each appeal was based:

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(c) The result of each appeal:

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(d) The name and address of the attorney on appeal:

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14. State the reasons for not appealing:

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15. Apart from any appeals listed in (13), have any other post conviction applications, petitions or motions, been filed with regard to this same imprisonment or restraint?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

16. If you answered "yes" to (15), list with respect to each such petition or motion:

(a) The type of proceeding:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) The name and date of each case, the docket number, the court, the administrative agency, institutional grievance committee from which relief was sought, and the result of each proceeding. (Attach a copy of each decision.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) The issues raised in each proceeding:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) State whether a hearing was held in connection with each of these proceedings:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(e) State whether the confined person was represented by an attorney in each proceeding and if so, the attorney's name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. Do you seek the appointment of counsel to represent you?

\_\_\_\_\_ Yes

\_\_\_\_\_ No  
If you would like the court to appoint counsel to represent you, are you able to pay the lawyer appointed to represent you?

\_\_\_\_\_ Yes

\_\_\_\_\_ No  
If you are not able to pay the lawyer appointed to represent you, you must complete Rule 9-403.

VERIFICATION

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

I, the undersigned, being first duly sworn upon my oath, state that I am the petitioner in this action. I have read the foregoing petition and know and understand its contents, and the information contained herein is true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Signature) \_\_\_\_\_ (Signature)

\_\_\_\_\_  
(Address) \_\_\_\_\_ (Address)

\_\_\_\_\_  
PNM No., if applicable

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by

\_\_\_\_\_  
(name of petitioner)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_

My Commission Expires

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing petition were served upon the respondent and the district attorney in the county in which the petition is filed by \_\_\_\_\_ (describe manner of service), this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

\_\_\_\_\_  
(Signature of petitioner)

**NOTE:** After this petition is reviewed by the Court, the Court will enter the order granting or denying the writ or ordering a response before further action. The order shall be prepared by the Court.

[Former Rule 9-701 is withdrawn and this form is adopted, effective August 1, 1989.]

**ANNOTATIONS**

**Compiler's note.** - Pursuant to a court order dated May 16, 1989, former Form 9-701 is withdrawn and the above form is enacted, effective for cases filed on or after August 1, 1989.

**ARTICLE 8  
STATUTORY PROCEEDINGS**

**9-801.**

[All courts] [§§ 24-1-16 to 24-1-19 NMSA 1978]

STATE OF NEW MEXICO

(COUNTY OF

\_\_\_\_\_  
(CITY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)

(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

APPLICATION FOR INSPECTORIAL SEARCH ORDER

\_\_\_\_\_, being duly sworn, on his oath, states that:

1. he is an officer authorized by law to make inspectorial searches;
2. inspection of the following described (*check appropriate box*)

premises:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(describe premises to be searched as particularly as possible)*

vehicle:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(describe vehicle as particularly as possible)* is necessary for the purpose of ascertaining the existence or nonexistence of the following described conditions

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(set forth purpose or reason for search, and facts)*

in accordance with the requirements prescribed by (*check appropriate box or boxes*)

fire  housing  sanitation  welfare  zoning requirements;

*(check if appropriate; complete if checked)*

3.  permission to inspect at night is requested for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(set forth reasons search may be reasonably conducted at night)*

*(check appropriate box)*

4.  he has been refused consent to make an inspectorial search after having given seven days' notice of the time and purpose of the proposed inspectorial search;

an inspectorial search by consent of the owner of the (premises) (vehicle) is not obtainable within a reasonable period of time;

*(check if appropriate and complete)*

it is necessary that the applicant be accompanied at the time of any search by one or more law enforcement officers

\_\_\_\_\_

\_\_\_\_\_  
*(set forth reason)*

Subscribed and sworn to before me in the above-named (county) (city) of the State of New Mexico this \_\_\_\_\_ day of \_\_\_\_\_,

19 \_\_\_\_\_

\_\_\_\_\_  
Signature of

Affiant

\_\_\_\_\_



\_\_\_\_\_  
Judge, Notary or Other Officer Title  
Authorized to Administer Oaths

**9-802.**

[All courts] [§§ 24-1-16 to 24-1-19 NMSA 1978]

STATE OF NEW MEXICO (COUNTY OF \_\_\_\_\_)

\_\_\_\_\_  
(CITY OF \_\_\_\_\_)

IN THE \_\_\_\_\_ COURT

(STATE OF NEW MEXICO)  
(CITY OF \_\_\_\_\_)

v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

INSPECTION ORDER

THE (STATE OF NEW MEXICO) (CITY OF \_\_\_\_\_)

TO ANY OFFICER AUTHORIZED TO MAKE AN INSPECTORIAL SEARCH OF  
PREMISES OR VEHICLES:

An application for an inspectorial search order, which is attached to and hereby made a part of this order, having been submitted to me by \_\_\_\_\_, who has made a sufficient showing that inspection of the (*check appropriate box*) [  ] premises [  ] vehicle described in the application is in accordance with reasonable legislative or administrative standards.

(*check appropriate box*)

[  ] I am satisfied that seven (7) days' notice has been given to the owner of the (premises) (vehicle) described in the application and consent has not been given to make an

inspectorial search.

[ ] I am satisfied that an inspectorial search by consent of the owner of the (premises) (vehicle) described in the application is not obtainable within a reasonable period of time.

*(check if appropriate)*

[ ] Inspection of the (premises) (vehicle) at night is reasonable under the circumstances described in the application.

YOU ARE HEREBY COMMANDED TO SEARCH FORTHWITH:

*(check one or both)*

[ ] the premises [ ] the vehicle  
described in the application

[ ] between the hours of 6:00 a.m. and 10:00 p.m.

[ ] at any time of the day or night  
*(check if appropriate)*

[ ] You are hereby authorized to be accompanied by one or more law enforcement officers.

You are to return this order within three (3) days after the search is completed to make a sworn report of the circumstances of the execution or failure to execute this order.

---

Judge

RETURN

\_\_\_\_\_, being duly sworn, on his oath, states that:

he received the attached order on \_\_\_\_\_, 19\_\_\_\_\_, and searched the (premises) (vehicle) described at \_\_\_\_\_ o'clock (a.m.) (p.m.) on \_\_\_\_\_, 19\_\_\_\_\_

The following is a report of the circumstances of execution or failure to execute the order of the court:

---

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(set forth record of proceedings taken subsequent to issuance  
of order)

\_\_\_\_\_  
Signature of Affiant  
\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Title

Subscribed and sworn to before me Authorized to Administer  
Oaths  
in the above-named (City)  
(County) of the State of New Mexico  
this \_\_\_\_\_ day of \_\_\_\_\_, 19

\_\_\_\_\_  
Official Title

\_\_\_\_\_  
Judge, Notary or Other Officer

**9-803.**

[§ 31-4-22 NMSA 1978]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO,

Plaintiff

v.

No. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ /

Defendant

WAIVER OF EXTRADITION

I, \_\_\_\_\_, in open court do hereby freely and voluntarily state that I am the identical \_\_\_\_\_, against whom a criminal proceeding charging me with \_\_\_\_\_ has been initiated in the county of \_\_\_\_\_, State of \_\_\_\_\_, and I further hereby freely, voluntarily without threats or promises of reward agree to return to that county and state, without legal process.

I further acknowledge that I will be held without bond while awaiting the agent of the state of \_\_\_\_\_ to take me into custody.

I further acknowledge that I have been informed of my rights to legal counsel, to require the issuance and service of a warrant of extradition as provided in Section 31-4-22 NMSA 1978 and my right to contest said warrant of extradition through a writ of habeas corpus as provided in Section 31-4-10 NMSA 1978.

This waiver is not an admission of guilt. I agree to return to the state of \_\_\_\_\_, with any peace officer who may be sent to take me to that state for trial.

This statement and waiver (made in quadruplicate), done at \_\_\_\_\_, \_\_\_\_\_ County, New Mexico, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, in the presence of a judge of the \_\_\_\_\_ Court of that county.

\_\_\_\_\_  
\_\_\_\_\_  
Attorney for  
Defendant

Defendant

\_\_\_\_\_  
Assistant District Attorney

I hereby certify that the foregoing was executed in my presence and that I informed the defendant of his rights to require the issuance and service of a warrant of extradition as provided by the laws of New Mexico, and his right to contest

said warrant of extradition through a writ of habeas corpus. I do hereby direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent of the demanding state, together with a copy of this waiver, and that the original hereof shall forthwith be forwarded to the office of the governor of the State of New Mexico for filing.

---

Judge  
Original - Governor  
2nd & 3rd - Agent  
4th - File

**9-804.**

[§ 31-4-22 NMSA 1978]

STATE OF NEW MEXICO

COUNTY OF

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IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO,

Plaintiff,  
v.

No.

---

Defendant.

ORDER FOR EXTRADITION ON WAIVER

THIS MATTER coming before the Court, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to § 31-4-22, NMSA 1978, the defendant, \_\_\_\_\_, being present in Court with counsel, \_\_\_\_\_; the Court having advised the defendant that he is charged with \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_; the Court having advised the defendant of his rights pursuant to § 31-4-10 NMSA 1978, and the defendant, with the advice of counsel, having waived each of the rights therein granted; and

the Court being fully satisfied in the premises;

IT IS, THEREFORE, ORDERED that the defendant, \_\_\_\_\_, be, and he is hereby, ordered extradited to the aforesaid County and State, and is remanded to the authorities thereof.

IT IS FURTHER ORDERED that the officer in custody is directed to deliver the defendant to the duly accredited agent of the demanding state, together with a copy of this order and the waiver of extradition. The authorities of the demanding State take custody of the defendant not later than \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

Judge

**9-804A.**

[Section 31-4-22 NMSA 1978, Rules 6-811, 7-811]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

STATE OF NEW MEXICO,  
v.

No. \_\_\_\_\_

\_\_\_\_\_  
John Doe

ORDER FOR EXTRADITION ON WAIVER

The defendant appeared before the above court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, pursuant to Section 31-4-22 NMSA 1978 and the court advised the defendant that:

1. the defendant has been arrested for having committed \_\_\_\_\_ (set forth criminal offense) in the County of \_\_\_\_\_, State of \_\_\_\_\_;
2. the above county and state have demanded the defendant be returned to that state;
3. the defendant has a right to extradition on an arrest

warrant issued by the governor of this state;

4. the defendant has a right to retain the assistance of counsel; and

5. the defendant has a right to appear before the district court on a writ of habeas corpus to test the legality of the defendant's arrest.

The defendant, after being advised of the above rights, consented to return to the demanding state and signed a waiver of extradition.

IT IS, THEREFORE, ORDERED that the above defendant be extradited to the demanding state and ordered held without bond pending delivery to the agent of the demanding state.

IT IS FURTHER ORDERED that the officer in custody of the defendant deliver the defendant to the agent of the demanding state together with a copy of this order and the waiver of extradition. The authorities of the demanding state shall take custody of the defendant not later than \_\_\_\_\_ (date).

---

Judge

#### USE NOTE

*A copy of this order and a copy of the defendant's consent to extradition is mailed by the court to the governor.*

[Adopted, effective October 1, 1996.]

#### ANNOTATIONS

**Cross-references.** - For Uniform Criminal Extradition Act, see Chapter 31, Article 4 NMSA 1978.

**Effective dates.** - Pursuant to a court order dated August 26, 1996, this form is effective for cases filed in the magistrate and metropolitan courts on and after October 1, 1996.

**9-805.**

[6-810, 7-810]

STATE OF NEW MEXICO

COUNTY OF

IN THE \_\_\_\_\_ COURT

No.

STATE OF NEW MEXICO

v.

John Doe

FUGITIVE COMPLAINT

The State of New Mexico alleges that the above-named defendant is subject to extradition from this state to the State of \_\_\_\_\_.

*(check applicable alternative)*

The defendant is charged in the State of

\_\_\_\_\_ with the crime of \_\_\_\_\_.

The defendant has been convicted in the above state of the crime of \_\_\_\_\_ and has

escaped from confinement.

violated terms of release or bail.

violated terms of probation.

violated terms of parole.

The reason I believe that the defendant is the person identified in the fugitive warrant is:

*(check all that apply)*

a copy of an NCIC message, teletype, warrant, indictment, information, affidavit, judgment of conviction or sentence so indicating is attached.

the mode of transportation of the defendant.

the physical description of the defendant.

the date of birth of the defendant.

the name of the defendant.

Other:

\_\_\_\_\_  
*(set forth other aspects showing that the defendant is the person sought in the other state)*

The crime with which the defendant was charged or convicted is punishable in the above state by death or by imprisonment of more than one year.

The defendant was arrested on \_\_\_\_\_,



19 \_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.) and is confined in the \_\_\_\_\_ (county) (city) jail.

**I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THIS FUGITIVE COMPLAINT IS TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A FUGITIVE COMPLAINT.**

19 \_\_\_\_\_,  
Date \_\_\_\_\_ Officer's signature \_\_\_\_\_

\_\_\_\_\_  
Title

USE NOTE

*This form may be used only if the defendant is charged with a felony. If the defendant is charged with a misdemeanor a complaint and arrest warrant must be used.*

[Adopted, effective October 1, 1996.]

**ANNOTATIONS**

**Cross-references.** - For Uniform Criminal Extradition Act, see Chapter 31, Article 4 NMSA 1978.

**Effective dates.** - Pursuant to a court order dated August 26, 1996, this form is effective for cases filed in the magistrate and metropolitan courts on and after October 1, 1996.

**9-806.**

[6-811, 7-811]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

No. \_\_\_\_\_

STATE OF NEW MEXICO

v.  
John Doe

MOTION TO EXTEND TIME

\_\_\_\_\_ (*name and title of  
prosecutor*) moves the court to extend the time for extradition  
in this case for \_\_\_\_\_ days after \_\_\_\_\_  
(*date previously granted*) because the demanding state has been  
unable to perfect its extradition within the time allotted.

\_\_\_\_\_

\_\_\_\_\_  
Prosecutor  
I hereby certify that a copy of  
the foregoing pleading was sent  
to \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, N.M.  
on the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

\_\_\_\_\_  
Prosecutor

[Adopted, effective October 1, 1996.]

**ANNOTATIONS**

**Cross-references.** - For Uniform Criminal Extradition Act, see Chapter 31, Article 4 NMSA 1978.

**Effective dates.** - Pursuant to a court order dated August 26, 1996, this form is effective for cases filed in the magistrate and metropolitan courts on and after October 1, 1996.

**9-807.**

[6-811, 7-811]

STATE OF NEW MEXICO

COUNTY OF

\_\_\_\_\_

IN THE \_\_\_\_\_ COURT

No.

STATE OF NEW MEXICO

v.

John Doe

ORDER GRANTING EXTENSION OF TIME

This matter coming before the court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ on motion of \_\_\_\_\_ (name and title);

IT IS ORDERED that the time for completion of extradition in this case be extended \_\_\_\_\_ days and shall expire on \_\_\_\_\_ (date).

Judge

Approved:

Prosecutor, if any

Attorney for the defendant, if any

[Adopted, effective October 1, 1996.]

ANNOTATIONS

**Cross-references.** - For Uniform Criminal Extradition Act, see Chapter 31, Article 4 NMSA 1978.

**Effective dates.** - Pursuant to a court order dated August 26, 1996, this form is effective for cases filed in the magistrate and metropolitan courts on and after October 1, 1996.

**9-808.**

[6-812, 7-812]

STATE OF NEW MEXICO

COUNTY OF

STATE OF NEW MEXICO

v.

No.

John Doe

TRANSFER ORDER EXTRADITION PROCEEDINGS

The defendant has been arraigned on a fugitive warrant. In response to questioning by the court, the defendant has advised the court that the defendant does not wish to sign a waiver of extradition.

It is ordered that the fugitive action be transferred to the district court for further proceedings.

---

Judge

---

Date

*(Attach copy of fugitive complaint and other pleadings and papers filed with the court.)*

[Adopted, effective October 1, 1996.]

**ANNOTATIONS**

**Cross-references.** - For Uniform Criminal Extradition Act, see Chapter 31, Article 4 NMSA 1978.

**Effective dates.** - Pursuant to a court order dated August 26, 1996, this form is effective for cases filed in the magistrate and metropolitan courts on and after October 1, 1996.

**ARTICLE 9  
CLINICAL LAW STUDENT APPEARANCES**

**9-901.**

[5-110.1]

CERTIFICATE OF DEAN OF \_\_\_\_\_ SCHOOL OF LAW

I hereby certify that I am the dean of the  
\_\_\_\_\_ School of Law and that this school of law is

an American Bar Association accredited law school that complies with the current standards of the American Bar Association regarding field placement programs.

I further certify that \_\_\_\_\_ (*name of student*) is a regularly enrolled student of the above-named law school who has received a passing grade in law school courses aggregating thirty (30) or more semester hours or their equivalent.

I further certify that the above-named student is participating in a clinical law program and will receive law school credit hours for work performed in the State of New Mexico under the direction or supervision of \_\_\_\_\_ (*name of supervising attorney or judge*), a member of the State Bar of New Mexico who has been admitted to practice law for a period of five (5) or more years. This law school credit will be earned during the period beginning \_\_\_\_\_ and ending \_\_\_\_\_. (*Set forth beginning and ending dates of program not to exceed a four month period.*)

I further certify that the above-named law student meets the academic and moral standards required of a student in good standing at this institution.

\_\_\_\_\_, 19\_\_\_\_\_  
.

Dean

[Adopted, effective October 1, 1995.]

### ANNOTATIONS

**Effective dates.** - Pursuant to a court order dated August 17, 1995, this form is effective October 1, 1995.

**9-902.**

[5-110.1]

STATE OF NEW MEXICO  
IN THE DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT  
\_\_\_\_\_, Plaintiff  
against

No.

\_\_\_\_\_

\_\_\_\_\_, Defendant

ORDER APPROVING CLINICAL LAW STUDENT APPEARANCE<sup>1</sup>

\_\_\_\_\_, a qualified supervising attorney participating in a clinical law program of the \_\_\_\_\_ School of Law, which meets the requirements of Rule 5-110.1 of the Rules of Criminal Procedure for the District Courts has requested that \_\_\_\_\_, a law student enrolled in a qualified clinical law program, be permitted to participate in this matter.

It is hereby ordered that the above-named law student may participate in this case.

\_\_\_\_\_  
Date

\_\_\_\_\_  
District Judge

USE NOTE

<sup>1</sup> If the clinical law student is enrolled in an out-of-state law school, the certificate of the dean of the law school must be filed with this order. See Rule 9-901.

[Adopted, effective October 1, 1995.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated August 17, 1995, this form is effective October 1, 1995.

**TABLE OF CORRESPONDING FORMS**

The first table below reflects the disposition of the former Criminal Forms. The left-hand column contains the former form number, and the right-hand column contains the corresponding present Criminal Form.

The second table below reflects the antecedent provisions in the former Criminal Forms (right-hand column) of the present Criminal Forms (left-hand column).

Former Form	NMRA
1.00	9-201
1.01	9-202
1.15	9-203
1.18	9-204
2.00	9-208
2.20	9-209
2.22	9-211
2.30	9-210
2.32	9-212
2.40	9-213
2.45	9-801
2.50	9-214
2.55	9-802
3.00	9-301
3.10	9-302
3.20	9-303
3.25	9-304
3.26	9-305
3.30	9-306
4.00	9-401
4.10	9-502
4.20	9-405
4.21	9-104
4.22	9-803
4.23	9-205
4.24	9-609
5.10	9-411
5.20	9-501
5.30	9-415
5.40	9-102
5.44	9-402
5.45	9-103
5.46	9-101
5.50	9-206
5.55	9-412
5.56	9-413
6.00	9-503
6.02	9-504
6.09	9-409
6.10	9-410
6.20	9-207
6.30	9-404
6.40	9-414
6.50	9-508

6.60	9-804
7.00	9-408
7.10	9-605
7.11	9-606
8.00	9-406
8.02	9-407
8.10	9-601
8.11	9-602
8.15	9-603
8.16	9-604
9.00	9-607
9.10	9-608
9.50	9-701
10.00	9-505
10.01	9-506
10.02	9-507

NMRA	Former Form
9-101	5.46
9-102	5.40
9-103	5.45
9-104	4.21
9-201	1.00
9-202	1.01
9-203	1.15
9-204	1.18
9-205	4.23
9-206	5.50
9-207	6.20
9-208	2.00
9-209	2.20
9-210	2.30
9-211	2.22
9-212	2.32
9-213	2.40
9-214	2.50
9-301	3.00
9-302	3.10
9-303	3.20
9-304	3.25
9-305	3.26
9-306	3.30
9-401	4.00



9-402	5.44
9-403	new
9-404	6.30
9-405	4.20
9-406	8.00
9-407	8.02
9-408	7.00
9-409	6.09
9-410	6.10
9-411	5.10
9-412	5.55
9-413	5.56
9-414	6.40
9-415	5.30
9-501	5.20
9-502	4.10
9-503	6.00
9-504	6.02
9-505	10.00
9-506	10.01
9-507	10.02
9-508	6.50
9-601	8.10
9-602	8.11
9-603	8.15
9-604	8.16
9-605	7.10
9-606	7.11
9-607	9.00
9-608	9.10
9-609	4.24
9-701	9.50
9-801	2.45
9-802	2.55
9-803	4.22
9-804	6.60

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

IN THE MATTER OF ADDITIONS TO AND :

AMENDMENT OF THE CRIMINAL

FORMS :

8000 Misc.

This matter coming on for consideration by the court, and

the court being sufficiently advised, Mr. Chief Justice Easley, Mr. Senior Justice Sosa, Mr. Justice Payne, Mr. Justice Federici and Mr. Justice Riordan concurring;

NOW, THEREFORE, IT IS ORDERED that Criminal Form 4.22, Waiver of Extradition; Criminal Form 4.23, Waiver of Preliminary Hearing and Presentation of Grand Jury; and Criminal Form 5.44, (Provisional) Notice of Peremptory Disqualification, be and the same are hereby adopted.

IT IS FURTHER ORDERED that Criminal Form 3.10, Order Setting Conditions of Release; Criminal Form 5.00, Record of Responses to Questions at Hearing to Determine Indigency - Affidavit of Defendant; Criminal Form 7.00, Plea and Disposition Agreement; Criminal Form 8.00, Guilty Plea Proceeding; and Criminal Form 9.50, Motion to Vacate, Set Aside or Correct Illegal Sentence by a Person in Custody, be and the same are hereby amended.

IT IS FURTHER ORDERED that the amendment of Criminal Forms 7.00, 8.00 and 9.50 shall be effective May 19, 1982.

IT IS FURTHER ORDERED that the adoption of Criminal Forms 4.22, 4.23 and 5.44 and the amendment of Criminal Forms 3.10 and 5.00 shall be effective July 1, 1982.

IT IS FURTHER ORDERED that the clerk of the court be and she is hereby authorized and directed to give notice of the foregoing additions to and amendments of the Criminal Forms by publishing the same in the NMSA 1978.

DONE this 20th day of April, 1982.

/s/ MACK EASLEY

Chief Justice

/s/ DAN SOSA, JR.

Senior Justice

/s/ H. VERN PAYNE

Justice

/s/ WILLIAM R. FEDERICI

Justice

/s/ WILLIAM F. RIORDAN

Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE REVISION AND ADOPTION :

OF CIVIL AND CRIMINAL FORMS FOR THE DISTRICT :

COURTS AND COURTS OF LIMITED

JURISDICTION :

8000 Misc.

This matter coming on for the consideration by the court, and the court being sufficiently advised, Mr. Chief Justice

Payne, Mr. Senior Justice Sosa, Mr. Justice Federici, Mr. Justice Riordan and Mr. Justice Stowers concurring:

NOW, THEREFORE, IT IS ORDERED that the following Civil Form 6.06 be and the same is hereby approved for use in the Magistrate and Metropolitan Courts;

IT IS FURTHER ORDERED that Criminal Form 4.24 be and the same is hereby approved for use in the District Courts;

IT IS FURTHER ORDERED that Criminal Form 6.60 be and the same is hereby approved for use in the District, Magistrate and Metropolitan Courts;

IT IS FURTHER ORDERED the approval of the above forms shall be effective for all cases filed in the above courts on or after October 1, 1983;

IT IS FURTHER ORDERED that the clerk of the court be and she hereby is authorized and directed to give notice of the approval of the above described orders by publishing the same in the NMSA 1978.

DONE at Santa Fe, New Mexico this 25th day of April, 1983.

/s/ H. VERN PAYNE

Chief Justice

/s/ DAN SOSA, JR.

Senior Justice

/s/ WILLIAM R. FEDERICI

Justice

/s/ WILLIAM RIORDAN

Justice

/s/ HARRY E. STOWERS, JR.

Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF :

THE

APPROVAL :

80

00 Misc.

OF CRIMINAL FORMS 9-105  
and 9-416 :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Scarborough, Senior Justice Sosa, Justice Stowers, Justice Walters and Justice Ransom concurring:

NOW, THEREFORE, IT IS ORDERED that the adoption of Criminal Forms 9-105 and 9-416 be and the same is hereby approved;

IT IS FURTHER ORDERED that the above adoption of Criminal Forms 9-105 and 9-416 shall be effective for cases filed on or after October 1, 1987;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the adoption of the above forms by publishing the same in the News and Views and in the 1986 SCRA.

DONE at Santa Fe, New Mexico this 17th day of August, 1987.

/s/ TONY SCARBOROUGH

Chief Justice

/s/ DAN SOSA, JR.

Senior Justice

/s/ HARRY E. STOWERS, JR.

Justice

/s/ MARY C. WALTERS

Justice

/s/ RICHARD E. RANSOM

Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE ADOPTION OF :  
CRIMINAL FORMS 9-307, 9-308 AND 9-  
309 : 8000 Misc.

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Scarborough, Senior Justice Sosa, Justice Stowers, Justice Walters and Justice Ransom concurring:

NOW, THEREFORE, IT IS ORDERED that the adoption of Criminal Forms 9-307, 9-308 and 9-309 be and the same is hereby approved;

IT IS FURTHER ORDERED that the above adoption of Criminal Forms 9-307, 9-308 and 9-309 shall be effective for cases filed on or after October 1, 1987;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the adoption of the above forms by publishing the same in the News and Views and in the SCRA 1986.

DONE at Santa Fe, New Mexico this 9th day of September, 1987.

/s/ TONY SCARBOROUGH

Chief Justice

/s/ DAN SOSA, JR.

Senior Justice

/s/ HARRY E. STOWERS, JR.  
Justice  
/s/ MARY C. WALTERS  
Justice  
/s/ RICHARD E. RANSOM  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT OF :  
CRIMINAL FORM 9-208, THE WITHDRAWAL  
OF : 8000 Misc.  
CRIMINAL FORM 9-402 AND THE ADOPTION :  
OF CRIMINAL FORM 9-403A :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Scarborough, Senior Justice Sosa, Justice Stowers, Justice Walters and Justice Ransom concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment of Criminal Form 9-208 be and the same is hereby approved;

IT IS FURTHER ORDERED that Criminal Form 9-402 be and the same is hereby withdrawn;

IT IS FURTHER ORDERED that Criminal Form 9-403A be and the same is hereby adopted;

IT IS FURTHER ORDERED that the above amendment, withdrawal and adoption of the above criminal forms shall be effective for cases filed on or after July 1, 1988;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment, withdrawal and adoption of the above criminal forms by publishing the same in the SCRA 1986.

DONE at Santa Fe, New Mexico this 16th day of March, 1988.

/s/ TONY SCARBOROUGH  
Chief Justice  
/s/ DAN SOSA, JR.  
Senior Justice  
/s/ HARRY E. STOWERS, JR.  
Justice  
/s/ MARY C. WALTERS  
Justice  
/s/ RICHARD E. RANSOM  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT, :  
WITHDRAWAL AND ADOPTION  
OF : 8000 Misc.  
CRIMINAL FORMS :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Stowers, Justice Scarborough, Justice Ransom and Justice Baca concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment of Criminal Forms 9-102, 9-208, 9-601 and 9-603 be and the same is hereby approved;

IT IS FURTHER ORDERED that the adoption of Criminal Forms 9-603A and 9-611 be and the same is hereby approved;

IT IS FURTHER ORDERED that Criminal Forms 9-602 and 9-604 be and the same are hereby withdrawn;

IT IS FURTHER ORDERED that the above amendment of Criminal Forms 9-601 and 9-603, the adoption of Criminal Forms 9-603A and 9-611 and the withdrawal of 9-602 and 9-604 shall be effective for cases filed on or after September 1, 1989;

IT IS FURTHER ORDERED that the amendment of Criminal Form 9-208 shall be effective for cases filed on or after January 1, 1990;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment, withdrawal and adoption of the above criminal forms by publishing the same in the SCRA 1986.

DONE at Santa Fe, New Mexico this 24th day of April, 1989.

/s/ DAN SOSA, JR.

Chief Justice

/s/ HARRY E. STOWERS, JR.

Justice

/s/ TONY SCARBOROUGH

Justice

/s/ RICHARD E. RANSOM

Justice

/s/ JOSEPH F. BACA

Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT, :  
WITHDRAWAL AND ADOPTION :  
OF CRIMINAL

FORMS : 8000 Misc.

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Stowers, Justice Scarborough, Justice Ransom and Justice Baca concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment of Criminal Form 9-309, the withdrawal of Criminal Form 9-701 and adoption of a new Criminal Form 9-701, and the adoption of Criminal Form 9-310 be and the same are hereby approved;

IT IS FURTHER ORDERED that the above amendment, withdrawal and adoption of the above criminal forms shall be effective for cases filed on or after August 1, 1989;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment, withdrawal and adoption of the above criminal forms by publishing the same in the SCRA 1986.

DONE at Santa Fe, New Mexico this 16th day of May, 1989.

/s/ DAN SOSA, JR.

Chief Justice

/s/ HARRY E. STOWERS, JR.

Justice

/s/ TONY SCARBOROUGH

Justice

/s/ RICHARD E. RANSOM

Justice

/s/ JOSEPH F. BACA

Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT OF :  
CRIMINAL FORM 9-

403 : 8000 Misc.

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Scarborough, Justice Ransom and Justice Baca concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment of Criminal Form 9-403 be and the same is hereby approved;

IT IS FURTHER ORDERED that the above amendment of the above criminal form shall be effective for cases filed on or after August 1, 1989;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above criminal form by publishing the same in the Bar Bulletin and in the SCRA 1986.

DONE at Santa Fe, New Mexico this 31st day of May, 1989.

/s/ DAN SOSA, JR.

Chief Justice

/s/ TONY SCARBOROUGH

Justice

/s/ RICHARD E. RANSOM

Justice

/s/ JOSEPH F. BACA

Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT, :  
ADOPTION AND WITHDRAWAL  
OF : 8000 Misc.  
CRIMINAL FORMS :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Ransom, Justice Baca, Justice Montgomery and Justice Wilson concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment of Criminal Forms 9-201, 9-202, 9-406 and 9-408 be and the same is hereby approved;

IT IS FURTHER ORDERED that the adoption of Criminal Forms 9-207A, 9-215, 9-311, 9-405A and 9-509 be and the same is hereby approved;

IT IS FURTHER ORDERED that the withdrawal of Criminal Form 9-301 be and the same is hereby approved;

IT IS FURTHER ORDERED that the withdrawal of Criminal Forms 9-302 and 9-303 and the adoption of new Criminal Forms 9-302 and 9-303 be and the same are hereby approved;

IT IS FURTHER ORDERED that the above amendment, adoption and withdrawal of the above Criminal Forms shall be effective for cases filed on or after September 1, 1990;



IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the SCRA 1986.

DONE at Santa Fe, New Mexico this 7th day of March, 1990.

/s/ DAN SOSA, JR.  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ SETH D. MONTGOMERY  
Justice  
/s/ KENNETH B. WILSON  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE :  
AMENDMENT OF :  
CRIMINAL : 8000 Misc.  
FORMS 9-201 AND 9-215 :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Ransom, Justice Baca, Justice Montgomery and Justice Franchini concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Forms 9-201 and 9-215 be and the same are hereby amended;

IT IS FURTHER ORDERED that the above amendment of the above criminal forms shall be effective for cases filed on or after April 1, 1991;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 26th day of December, 1990.

/s/ DAN SOSA, JR.  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ SETH D. MONTGOMERY

Justice  
/s/ GENE E. FRANCHINI  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF

THE :

8000 Misc.

AMENDMENT OF CRIMINAL :  
FORM 9-304 :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Ransom, Justice Baca, Justice Montgomery and Justice Franchini concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Form 9-304 is hereby amended so that the boldface caption at the bottom of the form shall read:

IT IS AGREED AND UNDERSTOOD THAT THIS IS A CONTINUING BOND WHICH SHALL CONTINUE IN FULL FORCE AND EFFECT UNTIL SUCH TIME AS THE BOND IS DULY EXONERATED AND DISCHARGED BY THE COURT. THE BOND GUARANTEES THE APPEARANCE OF THE DEFENDANT.

IT IS FURTHER ORDERED, for fiscal reasons that this amendment be accomplished on the current form by inserting a period after "DEFENDANT" and striking the remainder of the sentence. That the words (AND DISCHARGED BY THE COURT) be inserted after the word "DEFENDANT" and that all existing copies of the current form thus adjusted be exhausted before the form is reprinted to incorporate the amendment;

IT IS FURTHER ORDERED that the above amendment of the above Criminal Form shall be effective for cases filed on or after May 15, 1991;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Form by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 9th day of May, 1991.

/s/ DAN SOSA, JR.

Chief Justice

/s/ RICHARD E. RANSOM

Justice

/s/ JOSEPH F. BACA

Justice

/s/ SETH D. MONTGOMERY

Justice  
/s/ GENE E. FRANCHINI  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE :  
AMENDMENT AND APPROVAL :  
OF : 8000 Misc.  
CRIMINAL FORMS :

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Ransom, Justice Baca, Justice Montgomery and Justice Franchini concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Forms 9-505 and 9-607 be and the same are hereby amended;

IT IS FURTHER ORDERED that new Criminal Form 9-611 be and the same is hereby approved;

IT IS FURTHER ORDERED that the amendment and approval of the above criminal forms shall be effective for cases filed on or after October 1, 1991;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 9th day of May, 1991.

/s/ DAN SOSA, JR.  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ SETH D. MONTGOMERY  
Justice  
/s/ GENE E. FRANCHINI  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE :  
AMENDMENT OF CRIMINAL :  
FORMS : 8000 Misc.

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Sosa, Justice Ransom, Justice Baca, Justice Montgomery and Justice Franchini concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Forms 9-201 and 9-202 be and the same are hereby amended;

IT IS FURTHER ORDERED that the amendment of the above Criminal Forms shall be effective for cases filed on or after November 1, 1991;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 13th day of August, 1991.

/s/ DAN SOSA, JR.  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ SETH D. MONTGOMERY  
Justice  
/s/ GENE E. FRANCHINI  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO  
IN THE MATTER OF THE :  
APPROVAL OF CRIMINAL :  
FORMS : 8000 Misc.

This matter coming on for consideration by the court and the court being sufficiently advised, Chief Justice Ransom, Justice Baca, Justice Montgomery, Justice Franchini and Justice Frost concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Form 9-212A be and the same is hereby approved for use in the Magistrate, Metropolitan and Municipal Courts;

IT IS FURTHER ORDERED that the approval of the above criminal form shall be effective for cases filed on or after January 1, 1993;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 13th day of August, 1992.

/s/ RICHARD E. RANSOM  
Chief Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ SETH D. MONTGOMERY  
Justice  
/s/ GENE E. FRANCHINI  
Justice  
/s/ STANLEY F. FROST  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT :  
OF CRIMINAL FORM 9-

403 : 8000 Misc.

This matter coming on for consideration by the Court and the Court being sufficiently advised, Chief Justice Ransom, Justice Baca, Justice Montgomery, Justice Franchini and Justice Frost concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Form 9-403 be and the same is hereby amended and approved for use in the District, Magistrate and Metropolitan Courts;

IT IS FURTHER ORDERED that the approval of the above criminal form shall be effective for cases filed on or after December 1, 1993;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 12th day of October, 1993.

/s/ RICHARD E. RANSOM  
Chief Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ SETH D. MONTGOMERY  
Justice  
/s/ GENE E. FRANCHINI

Justice  
/s/ STANLEY F. FROST  
Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

IN THE MATTER OF THE AMENDMENT :

OF CRIMINAL FORM 9-  
215 :

8000 Misc.

This matter coming on for consideration by the Court and the Court being sufficiently advised, Chief Justice Ransom, Justice Baca, Justice Montgomery, Justice Franchini and Justice Frost concurring:

NOW, THEREFORE, IT IS ORDERED that Criminal Form 9-215 be and the same is hereby amended and approved for use in the District, Magistrate, Metropolitan and Municipal Courts;

IT IS FURTHER ORDERED that the approval of the above criminal form shall be effective for cases filed on or after December 1, 1993;

IT IS FURTHER ORDERED that the clerk of the court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 1st day of December, 1993.

/s/ RICHARD E. RANSOM

Chief Justice

/s/ JOSEPH F. BACA

Justice

/s/ SETH D. MONTGOMERY

Justice

/s/ GENE E. FRANCHINI

Justice

/s/ STANLEY F. FROST

Justice

## NMRA

IN THE SUPREME COURT OF THE  
STATE OF NEW MEXICO

NO. 94-8300

IN THE MATTER OF THE AMENDMENT OF

AND ADOPTION OF CRIMINAL FORMS

This matter coming on for consideration by the Court and the Court being sufficiently advised, Chief Justice Seth D. Montgomery, Justice Richard E. Ransom, Justice Joseph F. Baca, Justice Gene E. Franchini and Justice Stanley F. Frost concurring;

NOW, THEREFORE, IT IS ORDERED that Criminal Forms 9-206, 9-212A, 9-411, 9-501, 9-603, 9-607 and 9-611 be and the same hereby are amended;

IT IS FURTHER ORDERED that Criminal Forms 9-216, 9-303A and 9-602 be and the same hereby are adopted;

IT IS FURTHER ORDERED that the amendment and adoption of the above criminal forms shall be effective for cases filed on or after January 1, 1995;

IT IS FURTHER ORDERED that the Clerk of the Court is hereby authorized and directed to give notice of the amendment of the above Criminal Forms by publishing the same in the Bar Bulletin and the SCRA 1986.

DONE at Santa Fe, New Mexico this 30th day of September, 1994.

/s/ SETH D. MONTGOMERY  
Chief Justice

/s/ RICHARD E. RANSOM  
Justice

/s/ JOSEPH F. BACA  
Justice

/s/ GENE E. FRANCHINI  
Justice

/s/ STANLEY F. FROST  
Justice

**NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

NO. 95-8300

IN THE MATTER OF THE AMENDMENT AND  
ADOPTION OF THE RULES OF CRIMINAL PROCEDURE  
AND CRIMINAL FORMS FOR THE DISTRICT COURTS

ORDER

This matter coming on for consideration by the Court upon recommendation of the Rules of Criminal Procedure for the District Courts Committee to amend Rule 5-104 and adopt new Rule 5-110.1 and new Criminal Forms 9-901 and 9-902, and the Court

being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Stanley F. Frost, and Justice Pamela B. Minzner concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment of Rule 5-104 and new Rule 5-110.1, and new Criminal Forms 9-901 and 9-902 be and the same hereby are adopted;

IT IS FURTHER ORDERED that the above amendment of Rule 5-104 and new Rule 5-110.1 of the Rules of Criminal Procedure for the District Courts, and new Criminal Forms 9-901 and 9-902 shall be effective for cases filed in the district courts on and after October 1, 1995;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the above amendment and adoption of the District Court Criminal Rules and Forms by publishing the same in the Bar Bulletin and SCRA 1986.

DONE at Santa Fe, New Mexico this 17th day of August, 1995.

/s/ JOSEPH F. BACA

Chief Justice

/s/ RICHARD E. RANSOM

Justice

/s/ GENE E. FRANCHINI

Justice

/s/ STANLEY F. FROST

Justice

/s/ PAMELA B. MINZNER

Justice

## **NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

No. 95-8300

IN THE MATTER OF THE AMENDMENT OF

THE CRIMINAL FORMS FOR COURTS OF

LIMITED JURISDICTION

### ORDER

This matter coming on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Rules Committee, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Stanley F. Frost, and Justice Pamela B. Minzner concurring;

NOW, THEREFORE, IT IS ORDERED that Criminal Forms 9-101, 9-102, 9-103, 9-105, 9-605, 9-605A, 9-606, and 9-610 for the



Courts of Limited Jurisdiction be and the same hereby are approved;

IT IS FURTHER ORDERED that the above amendment of the Criminal Forms for the Courts of Limited Jurisdiction shall be effective November 1, 1995;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendment of the Criminal Forms for Courts of Limited Jurisdiction by publishing the same in the Bar Bulletin and in the SCRA 1986.

DONE at Santa Fe, New Mexico this 12th day of September, 1995.

/s/ JOSEPH F. BACA  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ GENE E. FRANCHINI  
Justice  
/s/ STANLEY F. FROST  
Justice  
/s/ PAMELA B. MINZNER  
Justice

## **NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 95-8300  
IN THE MATTER OF THE AMENDMENT OF  
THE CRIMINAL FORMS 9-211, 9-212, 9-212A  
and 9-410

### ORDER

This matter coming on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Rules Committee, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Stanley F. Frost, and Justice Pamela B. Minzner concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments to Criminal Forms 9-211, 9-212, 9-212A, and 9-410 be and the same hereby are approved;

IT IS FURTHER ORDERED that the above amendment of the Criminal Forms shall be effective on and after January 1, 1996;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the

Criminal Forms by publishing the same in the Bar Bulletin and in the SCRA 1986.

DONE at Santa Fe, New Mexico this 6th day of November, 1995.

/s/ JOSEPH F. BACA

Chief Justice

/s/ RICHARD E. RANSOM

Justice

/s/ GENE E. FRANCHINI

Justice

/s/ STANLEY F. FROST

Justice

/s/ PAMELA B. MINZNER

Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

NO. 95-8300

IN THE MATTER OF THE AMENDMENT OF

THE CRIMINAL FORM 9-403A

### ORDER

This matter coming on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Rules Committee and the District Court Criminal Rules Committee, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Stanley F. Frost, and Justice Pamela B. Minzner concurring;

NOW, THEREFORE, IT IS ORDERED that Criminal Forms 9-403A be and the same hereby is approved;

IT IS FURTHER ORDERED that the above amendment of the Form 9-403A shall be effective on and after January 1, 1996;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendment of Criminal Form 9-403A by publishing the same in the Bar Bulletin and in the SCRA 1986.

DONE at Santa Fe, New Mexico this 6th day of November, 1995.

/s/ JOSEPH F. BACA

Chief Justice

/s/ RICHARD E. RANSOM

Justice

/s/ GENE E. FRANCHINI

Justice

/s/ STANLEY F. FROST  
Justice  
/s/ PAMELA B. MINZNER  
Justice

## **NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 96-8300  
IN THE MATTER OF THE AMENDMENT OF  
CRIMINAL FORMS

### ORDER

This matter coming on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Rules Committee to adopt amendments to Forms 9-104 and 9-508, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Pamela B. Minzner, and Justice Dan A. McKinnon, III, concurring;

NOW, THEREFORE, IT IS ORDERED that Rules 9-104, and 9-508 of the Rules of Courts of Limited Jurisdiction be and the same hereby are amended;

IT IS FURTHER ORDERED that the above amendment of the rules shall be effective for cases filed in the Magistrate, Metropolitan, and Municipal Courts on and after October 1, 1996;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendment of the rules by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 26th day of August, 1996.

/s/ JOSEPH F. BACA  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ GENE E. FRANCHINI  
Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ DAN A. MCKINNON, III  
Justice

## **NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 96-8300  
IN THE MATTER OF THE ADOPTION OF  
CRIMINAL FORMS 9-804A, 9-805,  
9-806, 9-807, AND 9-808

ORDER

This matter coming on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Rules Committee to adopt new Forms 9-804A, 9-805, 9-806, 9-807, and 9-808, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Pamela B. Minzner, and Justice Dan A. McKinnon, III, concurring;

IT IS FURTHER ORDERED that new Forms 9-804A, 9-805, 9-806, 9-807, and 9-808 hereby are adopted;

IT IS FURTHER ORDERED that the above adoption of the new extradition forms shall be effective for cases filed in the Magistrate and Metropolitan Courts on and after October 1, 1996;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the adoption of the new forms by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 26th day of August, 1996.

/s/ JOSEPH F. BACA

Chief Justice

/s/ RICHARD E. RANSOM

Justice

/s/ GENE E. FRANCHINI

Justice

/s/ PAMELA B. MINZNER

Justice

/s/ DAN A. MCKINNON, III

Justice

**NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 96-8300  
IN THE MATTER OF THE AMENDMENTS  
OF RULES 2-703, 3-704, AND  
FORM 9-507 OF THE MAGISTRATE COURTS  
AND METROPOLITAN COURT RULES

ORDER

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Rules Committee to adopt amendments to Rules 2-703, 3-704, and Form 9-507, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Pamela B. Minzner, and Justice Dan A. McKinnon, III, concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments of Rules 2-703, 3-704, and Form 9-507 of the Magistrate Court and Metropolitan Court rules hereby are approved and shall be effective January 1, 1997;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the above-referenced rules and form by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 11th day of October, 1996.

/s/ JOSEPH F. BACA  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ GENE E. FRANCHINI  
Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ DAN A. MCKINNON, III  
Justice

## **NMRA**

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

NO. 96-8300

IN THE MATTER OF THE AMENDMENT OF  
THE CRIMINAL RULES AND FORMS FOR  
CRIMINAL APPEALS FROM COURTS OF  
LIMITED JURISDICTION

ORDER

WHEREAS, this matter came on for consideration by the Court upon the recommendation of the Courts of Limited Jurisdiction Rules Committee to approve amendments to Rules 6-402, 6-703, 6-704, 6-705, 7-402, 7-703, 7-704, 7-705, 7-706, 7-708, 7-709, 8-402, 8-703, 8-704, 8-705, and Forms 9-601, 9-602, 9-603, 9-607,

9-608, and the Court being sufficiently advised, Chief Justice Joseph F. Baca, Justice Richard E. Ransom, Justice Gene E. Franchini, Justice Pamela B. Minzner, and Justice Dan A. McKinnon, III, concurring:

NOW, THEREFORE, IT IS ORDERED that the amendments of the above-referenced Rules and Forms hereby are approved for use in Courts of Limited Jurisdiction effective January 1, 1997; and

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the Rules and Form for Courts of Limited Jurisdiction by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 30th day of October, 1996.

/s/ JOSEPH F. BACA  
Chief Justice  
/s/ RICHARD E. RANSOM  
Justice  
/s/ GENE E. FRANCHINI  
Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ DAN A. MCKINNON, III  
Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 97-8300  
IN THE MATTER OF THE AMENDMENT OF  
CRIMINAL FORM 9-403

### ORDER

This matter coming on for consideration by the Court upon request of the Public Defender Department to revise the indigency table pursuant to new Federal Poverty Guidelines established by the Department of Labor, and the Court being sufficiently advised, Chief Justice Gene E. Franchini, Justice Joseph F. Baca, Justice Pamela B. Minzner, and Justice Patricio M. Serna, concurring:

NOW, THEREFORE, IT IS ORDERED that the amendment to Criminal Form 9-403 be and the same hereby is approved;

IT IS FURTHER ORDERED that the amendment of the Form 9-403 shall be effective immediately;

IT IS FURTHER ORDERED that the Clerk of the Court is hereby

authorized and directed to give notice of the amendment of the Criminal Form 9-403 by publishing the same in the Bar Bulletin and in the NMRA.

DONE at Santa Fe, New Mexico this 14th day of February, 1997.

/s/ GENE E. FRANCHINI  
Chief Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ PAMELA B. MINZER  
Justice  
/s/ PATRICIO M. SERNA  
Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 97-8300  
IN THE MATTER OF THE AMENDMENTS  
OF RULES 6-201, 7-201, 8-201,  
6-502, 7-502, 8-502, FORM 9-406A,  
AND FORM 9-408A NMRA OF THE RULES  
FOR THE COURTS OF LIMITED JURISDICTION

### ORDER

WHEREAS, this matter came on for consideration by the Court upon the recommendation of the Courts of Limited Jurisdiction Rules Committee, and the Court being sufficiently advised, Chief Justice Gene E. Franchini, Justice Joseph F. Baca, Justice Pamela B. Minzner, and Justice Patricio M. Serna, concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments of Rules 6-201, 7-201, 8-201, 6-502, 7-502, 8-502, Form 9-406A, and Form 9-408A of the Rules for Courts of Limited Jurisdiction hereby are approved;

IT IS FURTHER ORDERED that the amendments of the above-referenced rules shall be effective on and after May 1, 1997;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the above-referenced rules by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 7th day of March, 1997.

/s/ GENE E. FRANCHINI  
Chief Justice  
/s/ JOSEPH F. BACA

Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ PATRICIO M. SERNA  
Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 97-8300  
IN THE MATTER OF THE AMENDMENTS  
OF RULES 6-102, 8-102, 6-601, 7-601,  
8-601, 7-702, 7-705, 8-109, AND FORM  
9-510 NMRA OF THE RULES FOR THE COURTS  
OF LIMITED JURISDICTION

### ORDER

WHEREAS, this matter came on for consideration by the Court upon the recommendation of the Courts of Limited Jurisdiction Rules Committee, and the Court being sufficiently advised, Chief Justice Gene E. Franchini, Justice Joseph F. Baca, Justice Pamela B. Minzner, Justice Patricio M. Serna, and Justice Dan A. McKinnon, III, concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments of Rules 6-102, 8-102, 6-601, 7-601, 8-601, 7-702, 7-705, 8-109, and Form 9-510 of the Rules for Courts of Limited Jurisdiction hereby are approved;

IT IS FURTHER ORDERED that the amendments of the above-referenced rules and form shall be effective on and after September 2, 1997;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the above-referenced rules and form by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 16th day of June, 1997.

/s/ GENE E. FRANCHINI  
Chief Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ PATRICIO M. SERNA  
Justice



/s/ DAN A. McKINNON, III  
Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 97-8300  
IN THE MATTER OF THE AMENDMENT OF  
CRIMINAL FORM 9-401A "WAIVER OF COUNSEL"

### ORDER

WHEREAS, this matter came on for consideration by the Court upon the recommendation of the Courts of Limited Jurisdiction Rules Committee, and the Court being sufficiently advised, Chief Justice Gene E. Franchini, Justice Joseph F. Baca, Justice Pamela B. Minzner, Justice Patricio M. Serna, and Justice Dan A. McKinnon, III, concurring;

NOW, THEREFORE, IT IS ORDERED that the amendment to Criminal Form 9-401A be and the same hereby is approved;

IT IS FURTHER ORDERED that the amendment of the Form 9-401A shall be effective on and after September 15, 1997; and

IT IS FURTHER ORDERED that the Clerk of the Court is hereby authorized and directed to give notice of the amendment of the Criminal Form 9-401A by publishing the same in the Bar Bulletin and in the NMRA.

DONE at Santa Fe, New Mexico this 22nd day of July, 1997.

/s/ GENE E. FRANCHINI  
Chief Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ PATRICIO M. SERNA  
Justice  
/s/ DAN A. McKINNON, III  
Justice

## NMRA

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
NO. 97-8300

IN THE MATTER OF THE AMENDMENT  
OF RULE 5-304 AND FORM 9-408C NMRA OF  
THE RULES OF CRIMINAL PROCEDURE  
FOR THE DISTRICT COURTS

ORDER

WHEREAS, this matter came on for consideration by the Court upon the recommendation of the Rules of Criminal Procedure Committee, and the Court being sufficiently advised, Chief Justice Gene E. Franchini, Justice Joseph F. Baca, Justice Pamela B. Minzner, Justice Patricio M. Serna, and Justice Dan A. McKinnon, III, concurring;

NOW, THEREFORE, IT IS ORDERED that the amendment of Rule 5-304 and Form 9-408C of the Rules of Criminal Procedure for the District Courts hereby are approved;

IT IS FURTHER ORDERED that the amendment of Rules 5-304 and Form 9-408C NMRA of the Rules of Criminal Procedure for the District Courts shall be effective on and after January 15, 1998;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the above-referenced rule and form by publishing the same in the Bar Bulletin and NMRA.

DONE at Santa Fe, New Mexico, this 14th day of November, 1997.

/s/ GENE E. FRANCHINI  
Chief Justice  
/s/ JOSEPH F. BACA  
Justice  
/s/ PAMELA B. MINZNER  
Justice  
/s/ PATRICIO M. SERNA  
Justice  
/s/ DAN A. MCKINNON, III  
Justice