

# CRIMINAL FORMS

## 1986 Recompile

Article

### ARTICLE 1 GENERAL PROVISIONS

Rule

#### 9-101.

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

STATE OF NEW MEXICO  
 IN THE . . . . . COURT  
 . . . . .  
 . . . . . COUNTY  
 STATE OF NEW MEXICO  
 v. . . . . No. . . . .  
 . . . . .  
 . . . . .  
 . . . . .

(PROVISIONAL) NOTICE OF PEREMPTORY

EXCUSAL

The undersigned hereby notifies the court that he is exercising his right to excuse the Honorable . . . . . from presiding over the above-captioned cause.

.....  
Signature of Party

#### 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 am the assigned judge in the above court and cause, but that (by a statement of excusal) (by recusal) I am precluded from presiding; and that although.

*check applicable alternative*

[ ] ten (10) days have passed since the parties were notified of such recusal,

[ ] five (5) days have passed since the parties were notified of such excusal,

I have received no notice that counsel have agreed upon another judge.

Accordingly, it is respectfully requested that an alternate judge be designated according to law.

. . . . ., 19. . . .

.....  
.....

Judge  
Division

.....  
[As amended, effective September 1, 1989.]

**ANNOTATIONS**

**The 1989 amendment**, effective for cases filed on or after September 1, 1989, added the heading "check applicable alternative" and added the second alternative.

**9-103.**

[2-106, 3-106, 7-106]

STATE OF NEW MEXICO (COUNTY  
OF .....)  
(CITY OF  
..... )

IN THE DISTRICT COURT

(STATE OF NEW MEXICO)  
(CITY OF . . . . .)

v.

John Doe

NOTICE OF EXCUSAL

The undersigned hereby notifies the court that he is exercising his right to excuse the Honorable . . . . . from presiding over the above-captioned case.

Dated this . . . . . day of . . . . ., 19 . . . . .  
.....

Signature of party

[As amended, effective May 1, 1986.]

**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 . . . . .)

.)

No.



this right.

Date: . . . . .

Defense Counsel

**9-105.**

[6-106]

STATE OF NEW MEXICO (COUNTY  
OF .....)  
(CITY OF  
..... )

IN THE . . . . . COURT

(STATE OF NEW MEXICO)  
(CITY OF . . . . .)

v.

John Doe

NOTICE OF RECUSAL

The undersigned hereby notifies the parties that he is recusing himself from presiding over the above captioned case. The parties are further notified that if within ten (10) days they do not agree upon another judge to hear the case, the clerk will request the district court to assign another judge.

. . . . ., 19 . . .

Judge

Division

[Adopted, effective October 1, 1987.]

**ANNOTATIONS**

**Compiler's note.** - Pursuant to a court order dated August 17, 1987, this form is effective for cases filed on or after October 1, 1987.

# ARTICLE 2 INITIATION OF PROCEEDINGS

Rule

## 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)

.....  
.....

.....  
.....

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.

.....  
Complainant  
.....

.....  
Title (if any)  
Approved:  
.....

.....  
.....  
.....  
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:

.....

.....  
.....

.....  
.....

.....  
.....

.....  
.....



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)

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)

**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:

.....  
.....

*(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.]

**ANNOTATIONS**

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

**9-208.**

[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  
.....

.....  
.....  
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 ..... Judge, Magistrate, Notary or Other

..... 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 me 2 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

[ ] is in Contempt of this Court

[ ] failed to pay fines or costs previously imposed

[ ] failed to comply with conditions of probation

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)

.....  
.....

.....  
.....

(print/type) Affiant's Name

.....  
.....

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 Judge, Notary or Other

. . . . . day of . . . . ., 19. . .

..  
Administer Oaths

Officer Authorized to

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

**9-212.**

[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. No. .  
. . . . .  
John Doe

BENCH WARRANT

THE (STATE OF NEW MEXICO) (MUNICIPALITY OF . . . . . )  
.)

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

**9-212A.**

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

STATE OF NEW MEXICO  
OF .....)  
OF .....)

(COUNTY  
  
(CITY

IN THE ..... COURT

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

o. ....

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:

- 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;
- failure to appear at first offender program;
- other ....

*(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 Sections 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 \$ .....;

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 \$ .....;

OR

The defendant may be released on bond in the amount of \$ .....

.....  
.....  
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

[Effective January 1, 1993.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a supreme court order dated August 13, 1992, this rule is effective January 1, 1993.

**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

.....  
describe premises)

(here name person and/or

.....  
.....

.....  
.....

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 county of the State  
of

Signature of Affiant

New Mexico this ..... day of ....., 19

.....

.....

.....

Official Title (if any)

.....

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

. . . . . and  
.....  
the search warrant 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.

.....  
.....

Signature of Officer

.....

.....

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)

.....  
.....  
.....  
.....

(Date) ..... (Arresting  
Officer)

Subscribed and sworn to  
before me in the above  
named county of the State  
of New Mexico this . . . . .

day of . . . . ., 19. .  
. . .

.....  
.....

Judge, Notary or other  
officer authorized to  
administer oaths

.....  
.....

Official title

(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.]

**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.

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

**ARTICLE 3  
RELEASE PROVISIONS**

Rule

**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

.....

.....

Telephone Number

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)

.....

.....

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, Form 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 Form 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

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.

.....  
(Judge) (Designee)

.....  
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 Form 9-302.

**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:

.....

.....

Judge or Authorized Person

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) (Zip Code)  
(State)

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:

.....

.....

.....

.....

.....

.....

.....





(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  
s  
. . . . .  
. . . . .

.....  
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.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated May 16, 1989, this form is effective for cases filed on or after 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 . . .  
..... (bondsmen).

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.

.....  
.....

(financial institution)  
By



.....  
Signature

Its

.....  
Title

[Approved effective September 1, 1990.]

**ANNOTATIONS**

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

**ARTICLE 4  
ARRAIGNMENT AND PREPARATION  
FOR TRIAL**

Rule

**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,

.....

.....

(District Public Defender)  
(If none, other appointed

counsel)

**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 FAMILY IN HOUSEHOLD: . . . . .

**PRESUMPTIVE ELIGIBILITY :**

. . . . . I currently do not receive public assistance.  
  
 . . . . . I currently receive the following type of public  
 assistance in . . . . . COUNTY  
  
 . . . . . AFDC \$. . . . . Food Stamps \$.  
 . . . . .  
 . . . . . Medicaid \$. . . . . SSI  
 \$. . . . .

**NET INCOME**

SELF

FAMILY IN HOUSEHOLD  
 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) . . . . .  
 . . . . . \$ . . . . .  
 . . . . .

. . . . .  
 SCREENING USE  
 ONLY  
 TOTAL ANNUAL INCOME \$ .

. . . . .  
 +  
 . . . . .  
 =  
 /  
 /

A . . . . .

**ASSETS**

Cash on  
 hand . . . . . \$

Bank  
 Accounts . . . . . \$

Real estate . . . . .  
 Equity \$ . . . . .

Motor Vehicles . . . . .  
 Equity \$ . . . . .

Other Personal Property: (described)  
 Equity \$ . . . . .

Equity \$ . . . . .

SCREENING USE  
 ONLY  
 TOTAL

ASSETS \$ ..... +

..... =

..... /

B

.....

EXCEPTIONAL EXPENSES (total exceptional expenses of family):

Medical Expenses (not covered by insurance)

.....

Court-order support payments/alimony

.....

Child-care payments (e.g. day care)

.....

Other (describe)

.....

SCREENING USE

ONLY

TOTAL EXPENSES \$ . . . . .

..... =

..... /

/ c

STATE OF NEW MEXICO

COUNTY OF . . . . .

This statement is made under oath; any false statement of a material fact to any question contained herein shall constitute perjury. I hereby state that the above information 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 and the federal internal revenue service regarding my financial condition.

.....

Date Signature  
e of Defendant

Sworn/affirmed and signed before me this day.

.....

. . . . .  
: .....  
....

Date Signature Title

. . . . .  
. . . . .

My Commission Expires  
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 & Family  
Only) 1 2  
3  
4

---

Available Funds  
(annually) \$7,475 \$10,025 \$12,575 \$15,125  
Add \$2,250.00 for each additional family member

. . . . . The defendant is indigent  
. . . . . The defendant is not indigent  
.....  
.....

Signature of screening agent Title  
Based on the above answers and information, I find that the  
defendant (is) (is not) indigent according to the public  
defender standards.

. . . . .  
. . . . .

Judge or Authorized Designee

GUIDELINES FOR DETERMINING ELIGIBILITY

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

I. PRESUMPTION OF INDIGENCY

A defendant is presumed indigent if the defendant is a current recipient of state or federally administered public assistance program for the indigent: AFDC, food stamps, medicaid, or supplemental security income (SSI). No further inquiry is necessary. Home equity, etc. is not to be taken into account if the defendant is a current recipient of one of the four programs described above.

II. FINANCIAL RESOURCES

If the defendant is not presumptively indigent, the screening agent shall examine the financial resources of the defendant 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 defendant and all family members in the household 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 months preceding the interview date and calculate the amount of money earned during such twelve month period; or

(2) if the individual is presently employed, the screening agent shall project the current income for twelve months into the future. If the defendant states that he is unemployed and has nothing, the screening agent shall inquire as to how the defendant "gets by". If the defendant gets by on "odd jobs", the income from the odd jobs should be noted.

Also to be considered are funds from any other sources including but not limited to social security payments, union funds, veteran's benefits, workmen's compensation, unemployment



benefits, regular support from an absent family member, public or private employee pensions, or income from dividends, interests, rents, estates, trusts or gifts. If the defendant lives alone but receives food or rent from a family member, the food or rent shall be considered as regular support from his family and shall be included as income.

If the defendant is physically but not legally separated from his spouse, then he is still married to his spouse and the spouse's income is community property and must be included in the calculations. If a family member is an alleged victim or a complaining witness against the defendant, the family member's income shall not be considered.

#### B. Assets

The screening agent shall consider all assets of the defendant and all family members 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. If the defendant is living alone and rent free in a home or on land owned by a family member, the equity in the home or on land should be attributed to the defendant. If a family member is an alleged victim or a complaining witness against the defendant, the family member's income shall not be considered.

#### C. Exceptional Expenses

The screening agent shall consider any unusual expenses of the defendant and the defendant's family which would, in all probability, prohibit the defendant 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 defendant says that he pays child support or child care when he can, the payments do not qualify as exceptional expenses.

The defendant must provide proof of current payments on all exceptional expenses.

### 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 defendant is indigent and is eligible for free representation. If the available funds exceed the amounts in the indigency table, the defendant is not indigent and is not eligible for free representation.

If the defendant does not know the income or assets for family members in his household, he is presumed not indigent and is not eligible for free representation unless he produces the necessary information within two (2) working days after the interview.

#### IV. APPEAL

If the defendant is found by the screening agent or the court *not* to be indigent, the defendant may appeal the decision to the district defender in those districts with public defender offices. In those districts without public defender offices, the defendant may appeal directly to the court.

If the defendant wishes to appeal the decision of the district defender, the defendant shall file a notice of appeal with the district court. All appeals shall be filed within ten (10) working days after the date of the decision.

#### V. REIMBURSEMENT

If the defendant is not indigent, but cannot hire a private attorney, he 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 defendant 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 defendant any money and if so, how much. After obtaining statements from three financial institutions, the defendant must obtain letters from three private lawyers stating whether they will accept the case on behalf of the defendant. If none of the lawyers will accept the case, the defendant 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 defendant is not indigent but is unable to hire a private attorney. In districts with public defender staff offices, the public defender shall accept the defendant'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 defendant on a reimbursement basis.

If the defendant is ineligible for free representation but is in jail and is financially unable to make bail, the defendant shall not be required to provide documentation of inability to hire private counsel as set forth above and shall be given public defender representation upon a reimbursement basis.

In all reimbursement cases, the defendant must 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 the maximum fee stated on the farm-out fee schedule adopted by the public defender department. The maximum farm-out fee shall serve as a flat fee in reimbursement cases. The expert witness fees and private investigation fees shall be governed by the fees paid by the public defender department.

#### VI. NEW CHARGES

If a defendant 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. If a defendant 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 defendant, completion of a new eligibility determination form is necessary.

[Adopted, effective September 21, 1986; as amended, effective August 1, 1989.]

### **ANNOTATIONS**

**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.

#### **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 the appropriate box or boxes)

[ ] The defendant is indigent and unable to obtain  
counsel.

[ ] The defendant is not indigent, desires counsel, but is  
unable to obtain counsel.

IT IS THEREFORE ORDERED THAT:

[ ] public defender shall 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  
an amount of not less than \$. . . . . for legal representation  
and related expenses.

.....  
.....

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.]

**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 Name 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

**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





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).



**9-407.**

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 undertands 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.**

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:  
.....

.....

District 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.

### 9-409.

[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

. . . . . at . . . . . o'clock  
(a.m.) (p.m.)

*address*

on . . . . ., 19. . . . ., the following records,  
papers, documents  
or other tangible evidence in its possession or available to it:

. . . . .

*(describe briefly)*

. . . . .  
. . . . .

. . . . .  
. . . . .

. . . . .  
. . . . .

. . . . .

Judge

(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 . . . . . )  
No. . . . .

. . . . .  
v.  
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.  
.....  
.....

Judge

**9-412.**

[5-501, 5-502]

STATE OF NEW MEXICO

COUNTY OF.

. . . . .

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.**

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.  
John Doe

No. . . . .

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.

.....  
Prosecutor or Complainant

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.  
John Doe

No. .

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

Rule

## 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:

. . . . ., 19. . . . .

.....

.....

(Clerk) (Judge)

**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 .....

...., which 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

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.  
. . . . .

.....  
(Judge)

(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 . . . . .  
. . . . . on the . . . . . day of . . . . .  
. . . . .,

(address of court)

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 . . .

.  
.....  
.....

(Judge)  
(Clerk)

**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?

Test	Screening Test	Lab
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

---

---

---

---

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

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..  
.....  
Laboratory 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:

.....  
Medical Investigator

Date received:

.....

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:

.....  
Medical Investigator

Date returned:

.....

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.

.....  
.....

Medical Investigator

[SEAL]

**9-507.**

**NMSP CRIME LAB**

**CASE DISPOSITION AND REPORT CERTIFICATION**

Evidence Received:

.....  
.....  
.....

Received from:

.....  
Officer

.....  
.....

Dept.

Received by:

.....  
Analyst

Date received:

.....

This evidence was held in the exclusive custody and control of the NMSP Crime Lab from the date of receipt through the date of return:

Returned to: \_\_\_\_\_ YES \_\_\_\_\_ NO

.....  
Officer

.....  
.....

Dept.

Returned by:

.....  
Analyst

Date returned:

.....

CERTIFICATION

In accordance with Paragraph A of Rule 11-902 of the Rules of Evidence, the attached report is a record of the New Mexico State Police, is duly authenticated under the seal of such Department 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.

.....

Analyst

[SEAL]

**9-508.**

[5-611]

STATE OF NEW MEXICO

COUNTY OF . . . . .

. . . . .

IN THE DISTRICT 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 of the Rules of Criminal Procedure;

IT IS THEREFORE ORDERED, as follows:

- 1. The defendant is not guilty of the charges of

.....

.....

.....  
.....

.....  
..... ,

and it is adjudged that he 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.

.....  
.....

District Judge

**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.]

ANNOTATIONS

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

ARTICLE 6  
JUDGMENT AND APPEAL

Rule

9-601.

[6-701, 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

JUDGMENT AND SENTENCE

(COMMITMENT OR PROBATION)

On this . . . . . day of . . . . .  
. . . . ., 19 . . . . ., the defendant appeared in person  
and with . . . . ., his  
attorney, and . . . . .  
appeared on behalf of the (State of New Mexico) (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)<sup>1</sup> 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:

.....  
.....

.....  
.....

.....  
.....

.....

[ ] nolo contendere, 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 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 . . . . . ; 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 . . . . ., 19. . . . .

[ ] the defendant shall pay to the (Magistrate) (Metropolitan) (Municipal) Court the following fine(s):

\$. . . . . for  
.....

\$. . . . . for  
.....

\$. . . . . for  
.....

[ ] the defendant shall pay to the (Magistrate) (Metropolitan) (Municipal) Court the following costs and fees:

(complete applicable costs and fees)2

court costs \$. . . . .  
automation  
fee \$. . . . .  
.....

corrections fee \$. . . . .  
laboratory  
fee \$. . . . .  
....

screening & treatment costs \$. . . . .

other . . . . .  
.

\$. . . . .

.....  
(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 treatment program

[ ] a first offender program

[ ] driver improvement school

[ ] petty larceny school

[ ]

.....  
.....

[ ] The defendant is ordered to perform . . . . .  
. . . (hours)  
(days) of community service as follows:

.....  
.....

[ ] the defendant will make restitution to (set forth name of person or entity)

.....  
.....

in the amount of . . . . .



. . . . . on or before the . . . . . day of.  
. . . . ., 19. . . . .

[ ] 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)

[ ] IT IS FURTHER ORDERED (other)

.....

.....  
.....

[ ] THE DEFENDANT IS ORDERED TO REPORT TO

[ ] PROBATION SERVICES

[ ] EDUCATIONAL SERVICES

[ ] (SPECIFY OTHER)

.....

ON OR BEFORE . . . . . (A.M.) (P.M.) THE . . . . .  
. . . . . DAY OF . . . . . 19. . . . .

*(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.

Dated . . . . ., 19. . . . .  
.....

.....

Judge

[As amended, effective September 1, 1989.]

1 This form should be modified by municipal courts to eliminate this alternative as there is no right to trial by jury in municipal court.

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 for magistrate, metropolitan court and municipal court crime laboratory fee; and Section 35-6-1 for magistrate and metropolitan court corrections fee and automation fees and other fees and costs to be assessed upon conviction.

**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.

**9-602. Withdrawn.**

**ANNOTATIONS**

**Compiler's note.** - Pursuant to a court order dated April 24, 1989, this form, relating to judgment and sentence (commitment or probation), is withdrawn for cases filed on or after September 1, 1989. For comparable form, see Form 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 COMPLAINT1

(If the sentence involves imprisonment or probation,  
use JUDGMENT AND SENTENCE 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,  
and [ ] waived, and  
(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:

.....  
.....

.....  
.....



laboratory  
fee \$.....

...

(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 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.

Dated . . . . ., 19. . . . .

.....

.....

Judge

[As amended, effective September 1, 1989.]

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 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).

### 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".

### 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.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated April 24, 1989, this form is effective for cases filed on or after 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 Form 9-603.

**9-605.**

[6-701, 7-701, 8-701]

STATE OF NEW MEXICO

COUNTY OF . . . . .

. . . . .

IN THE . . . . . COURT

STATE OF NEW MEXICO

v.

No. . . . .

. . . . .

John Doe

AGREEMENT TO PAY THE FINE (AND COURT COSTS)

Having been convicted of . . . . . and assessed \$. . . . . fine (and \$. . . . . costs) and being unable to pay such fine and costs at this time, I hereby agree and promise to pay the above fine and court costs in the following manner:

. . . . .  
. . . . .  
. . . . .  
. . . . .  
. . . . .

I fully understand that if I fail to pay the fine and costs in accordance with this agreement I can be prosecuted for contempt of court and confined in jail until I make such payment.

Dated:

. . . . .  
. . . . .  
. . . . .

Defendant

Witness: . . . . .

**9-606.**

[8-701]

STATE OF NEW MEXICO

CITY OF

.....

IN THE MUNICIPAL COURT

CITY OF . . . . .

v.

No.

.....

John Doe

AGREEMENT TO PAY FINE

Having been convicted of . . . . .  
and assessed \$. . . . . fine and being unable to pay  
such fine at this time, I hereby agree and promise to pay the  
above fine in the following manner:

.....  
.....

.....  
.....

.....  
.....

I fully understand that if I fail to pay the fine in  
accordance with this agreement I can be prosecuted for contempt  
of court and confined in jail until I make such payment.

Dated:

.....  
.....

Defendant

Witness: . . . . .

**9-607.**

[6-703, 7-703, 8-703]



STATE OF NEW MEXICO

IN THE DISTRICT COURT

STATE OF NEW MEXICO

COUNTY

v.

No.....

Defendant(s)

NOTICE OF APPEAL

Defendant hereby files for appeal from the decision of the . . . . . Court in the above cause.

Defendant hereby requests a trial setting within six months from the date of filing of this notice of appeal.

Defendant or (Defendant's Attorney)

(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.)

[As amended, effective May 1, 1986, October 1, 1991.]

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".

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 . . . . .)

v. No. . . . .  
. . . . .  
John Doe District Court No. . . . .  
. . . . .

TITLE PAGE OF TRANSCRIPT OF CRIMINAL  
PROCEEDINGS AND CERTIFICATE

DEFENDANT represented by  
..... ,  
Attorney at Law. Public Defender's Office  
.....  
[ ] Appointed [ ] Retained  
Address of Attorney

.....  
(STATE OF NEW MEXICO)  
(COUNTY OF . . . . .) ss.  
(CITY OF . . . . .)

I do hereby certify that the attached is a complete  
transcript of Criminal Proceedings and is a true and correct  
representation of the entries in the Docket of the above-styled  
cause.

Dated this . . . . . day of . . . . . ,  
19. . . . .

.....  
.....  
(Clerk) (Judge)

**9-609.**

DEFENDANT'S WAIVER OF APPEAL

I, . . . . ., being duly sworn on my oath, state that I have been

Defendant

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.

Date: . . . . .

. . . . .

. . . . .

Defendant

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

Witnessed:

. . . . .  
. . . . .  
. . . . .  
. . . . .

Attorney for  
Defendant  
Judge

Notary Public,

or Other Officer Authorized  
to Administer Oaths

**9-610.**

[66-8-102]

STATE OF NEW MEXICO

COUNTY OF

.....

CITY OF

.....

IN THE . . . . . COURT

COUNTY OF . . . . .  
CITY OF . . . . .

v.

No. . . . .

. . . . .  
John Doe

VEHICLE IMPOUNDMENT ORDER

This matter coming before the Court pursuant to Section 66-8-102 NMSA 1978, upon the defendant's conviction of

[ ] driving while under the influence of intoxicating liquor,

[ ] driving while under the influence of drugs,

[ ] driving with one-tenth of one percent or more by weight of alcohol in his blood, and

THE COURT FINDS that

[ ] this is a (second) (third) offense for violating the provisions of Section 66-8-102 NMSA 1978; and

[ ] the defendant is the owner of the vehicle he was driving at the time of the offense.

IT IS THEREFORE ORDERED that the defendant's vehicle, State of New Mexico (. . . . .) license number . . . . . be:

[ ] impounded by the (sheriff of this county) (city police) at the defendant's expense for a period of (30) (60) days at such place as may be designated by the (sheriff) (city police);

[ ] immobilized (by the sheriff of this county) (by the city police) at the defendant's expense for a period of (30) (60) days.

Dated . . . . ., 19. . . . .

.....

.....

Judge

RETURN

The undersigned, being a duly certified law enforcement officer, hereby certifies that the vehicle described in the above order was (impounded) (immobilized) for a period of (30) (60) days as follows:

Place of impoundment

.....

OR

Manner of immobilization  
 .....  
 Beginning date . . . . .  
 . Ending  
 date  
 .....  
 .....  
 .....  
 Signature of Officer  
 .....  
 .....  
 Title  
 [Adopted, effective September 1, 1989.]

**ANNOTATIONS**

**Recompilations.** - The above form was adopted as Form 9-611 in 1989 but was  
 recompiled as Form 9-610 in 1990.

**Effective dates.** - Pursuant to a court order dated April 24, 1989, this form is effective  
 for cases filed on or after September 1, 1989.

**9-611.**

STATE OF NEW MEXICO COUNTY  
 OF .....

CITY OF  
 .....

IN THE ..... COURT

(STATE OF NEW MEXICO)  
 (CITY OF .....)

v. No. . . . .

John Doe and  
 . . . . ., (surety)  
 . . . . ., (surety)

ORDER TO SHOW CAUSE

TO: . . . . .  
. . . . .  
. . . . .  
. . . . .  
.....

defendant address  
YOU ARE ORDERED to 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 you should not be  
held in contempt of this court for:

[ ] (failure to pay fine(s) (and) (court costs) imposed  
by this court  
[ ] (set forth below other grounds):

.....  
.....

.....  
.....

Dated this . . . . . day of . . . . . , 19. . . . .  
.....

Judge  
[Effective October 1, 1991.]

**ANNOTATIONS**

**Effective dates.** - Pursuant to a court order dated May 9, 1991, this form is effective for cases filed on or after October 1, 1991.

**Recompilations.** - Former Form 9-611, relating to vehicle impoundment order, was recompiled as Form 9-610 in 1990.

**ARTICLE 7  
SPECIAL PROCEEDINGS**

Rule

**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.

.....

. . . . .  
. . . . ., (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 Criminal Form 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:

.....  
.....  
  
.....  
.....  
  
.....  
.....  
  
.....  
.....  
  
.....  
.....  
  
.....  
.....

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:

.....  
.....



.....  
.....

.....  
.....

.....  
.....

.....  
.....

.....  
.....

5. Briefly describe the relief requested:

.....  
.....

.....  
.....

.....  
.....

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:

.....  
.....

.....  
.....

7. State the date of the final judgment, order or decree for confinement and a summary of its terms:

.....  
.....

.....  
.....

8. Attach a copy of the judgment, order or decree. If not, explain why you are not doing so.

.....  
.....

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:

.....  
.....

.....  
.....

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)

.....  
.....

.....

.....

.....  
.....

(b) A summary of the grounds upon which each appeal was based:

.....  
.....

.....  
.....

.....  
.....

.....  
.....

(c) The result of each appeal:

.....  
.....

.....  
.....

.....  
.....

(d) The name and address of the attorney on appeal:

.....  
.....

.....  
.....

.....  
.....

14. State the reasons for not appealing:

.....  
.....

.....  
.....

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 Criminal Form 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)

.....  
.....

(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 Form 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

Rule

## 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 Signature

. . . . .  
. . . . .  
. . . . .  
.....

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.  
.....  
John Doe

No. .

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  
Inspection Officer  
.....

.....  
Title  
Subscribed and sworn to before me in the above-  
Authorized to Administer Oaths  
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 .  
. . . . .

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

**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	SCRA 1986
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

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SCRA 1986

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